



Case Report

Details

<i>Involved Incident #(s)</i>	<i>Date/Time</i>	<i>Location</i>
AZ1800238888	06/10/2018 02:28	450 S Ocatillo Ave, Benson, Arizona 85602
Arizona vs.		
<i>Case Agent:</i>	#6284 PHILLIPS, R.	
<i>Case File #:</i>	C18005976	
<i>Case Class:</i>	Assault and related offenses	



Victim/Witness List

DPS Employees / Investigators

Michael Valdez, #7625	Case agent	MValdez@azdps.gov
Rick Ortiz, #6760	Co-case agent	ROrtiz@azdps.gov
Robert Phillips, #6284	Case supervisor	RPhillips@azdps.gov
Eric Andrews, #7757	Crime scene agent	EAndrews@azdps.gov
Seth Boothe, #6113	Assisting detective	SBoothe@azdps.gov
Jeremy Bulger, #6754	Supervisor	JBulger@azdps.gov
Benjamin Buller, #5158	Assisting trooper	BBuller@azdps.gov
Travis Deskins, #7891	Assisting detective	TDESKINS@AZDPS.GOV
Adriana Marshall, #6332	Assisting detective	AVMarshall@azdps.gov
Timothy Mason, #4937	Supervisor	TMason@azdps.gov
Robert Olshaskie III, #7027	Assisting detective	ROlshaskie@azdps.gov



Arizona Department of Public Safety

Property List

Incident #: **AZ1800238888**

<i>Item#</i>	<i>Type</i>	<i>Description</i>	<i>Value</i>	<i>Linked Persons</i>
RO1	Personal	2 Boots/shoes		Matthew Joseph Menard
RO2	Machinery/tools	1 Keys (all types) HANDCUFF KEY		Matthew Joseph Menard
RO3	Ammunition	1 9		Matthew Joseph Menard
RO4	Ammunition	1 40		Matthew Joseph Menard
RO5		1 9		Matthew Joseph Menard
RO6	Personal	1 Handcuffs HANDCUFFS		Matthew Joseph Menard
RO7	Ammunition	1 9		Matthew Joseph Menard
RJO2	Pistol	1 40		
RJO1	Ammunition	42 40		
RJO3	Ammunition	50 9		
RJO4	Pistol	1 9		
RO8	Pistol	1 25		
RO8.2	Ammunition	7 25		
RJO5		1		
RJO6	Electric shock gun	2		
MV7	Computer items	1 Disk		
AF1	Entertainment	1 CD/DVD		
MV1	Computer items	1 Disk		
MV2	Computer items	1 Disk		
MV3	Computer items	1 Disk		
MV4	Computer items	1 Disk		
MV5	Computer items	1 Disk		

MV6	Computer items	1 Disk
MV8	Computer items	1 Disk



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SUPPLEMENTAL REPORT

DR NUMBER:	AZ1800238888
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This is a supplemental report written Arizona Department of Public Safety (DPS) Special Investigations Unit (SIU) Sergeant Jeremy Bulger, #6754.

Notification

On Sunday, June 10, 2018, at approximately 0445 hours, DPS Major Crimes District (MCD) Commander Captain Tim Mason, #4937, contacted me via telephone and informed me of an officer involved incident in Benson, Arizona, where the trooper's duty weapon was discharged during a struggle with a suspect at the Benson Hospital.

Mason requested I respond to the Hospital to assist with the criminal investigation.

Arrival

At approximately 0951 hours, I arrived at the Benson Hospital, located at 450 South Ocotillo Avenue, Benson, Arizona. Upon my arrival, I was provided with a briefing conducting by Mason. After receiving a briefing from Mason, I was provided with an investigative update from DPS SIU Detective Eric Andrews, #7757. Andrews briefed me on the investigative actions taken by the investigative personnel on-scene. Andrews informed me DPS SIU personnel were waiting on a search warrant to be authored and signed for the suspect's vehicle and the Benson Hospital.

Investigative Actions

At approximately 1300 hours, I was informed by SIU Detective Robert Olshaskie, #7027, the search warrant for the Benson Hospital was signed. I assisted Olshaskie with searching exam room 6 and exam room 7 for any items of evidentiary value. I did not locate any items during the search. See Olshaskie's supplemental report for further.

At approximately 1317 hours, I assisted Olshaskie with collecting items RO1 through RO7. Olshaskie located and collected each item of evidence while I entered the items description into the Records Management System (RMS).

At approximately 1353 hours, the collection of the evidence at the Benson Hospital was complete.

I remained at the Benson Hospital, in a supervisory capacity for the duration of the incident.

At approximately 1730 hours, I departed the Benson Hospital and arrived at the Benson Police Department located at 360 Gila Street, Benson, Arizona.

At approximately 1816 hours, I cleared the incident.

This concluded my involvement in the investigation.

Detective Name	ID No.	Location	Date	Supervisor
Sergeant Jeremy Bulger	6754	31030003	06/10/2018	Captain Tim Mason, #4937



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This is a supplemental report written by Arizona Department of Public Safety (DPS) Border Strike Force (BSF) Detective Travis Deskins, #7891.

Narrative

On Sunday, June 10, 2018 at approximately 0530 hours, I received a phone call from DPS BSF Sergeant Paul Maine, #4172. Maine requested I respond to the Benson Hospital located at 450 South Ocotillo Avenue, Benson, Arizona. Maine informed me a DPS Highway Patrol (HP) Trooper had been involved in an officer involved shooting.

At 0603 hours, I arrived at the hospital and was briefed by DPS HP Trooper Joshua Marotto, #10462, and DPS HP Sergeant Brian Summerfield #5709. After the briefing, I was tasked with identifying witnesses and obtaining their contact information.

I contacted Benson Hospital staff and patients who were present at the time of the incident. The identified Benson Hospital staff and patients are listed below:

- Anita Paxton (Admission Clerk) [REDACTED]
- Julie Qashu (Registered Nurse) [REDACTED]
- Constance Proulx (Registered Nurse) [REDACTED]
- Gary Edwards (Registered Nurse) [REDACTED]
- Dena Welch (Lab Technician) [REDACTED]
- Trudy Marks (EMT) [REDACTED]
- Ryan Howard (Doctor) [REDACTED]
- David Bills (Patient) [REDACTED]

After identifying the witnesses and victims, DPS BSF Detective Seth Boothe, #6113, and I were tasked with interviewing the victims and witnesses previously identified. The audio recorded interviews were conducted in a vacant examination room within the emergency room (ER). Boothe maintained custody of the recordings and was responsible for the dissemination of the recordings.

At approximately 0648 hours, I spoke with Emergency Medical Technician (EMT) Trudy Marks. While speaking with Marks, I learned the following:

- She was positioned on the west end of the nurse's counter at the time of the altercation with Menard
- She witnessed Menard's disruptive behavior
- She witnessed Menard throw a punch at the trooper
- She witnessed a physical struggle between the trooper and Menard, followed by a gunshot

Detective Name	ID No.	Location	Date	Supervisor
TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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- She was not able to see who had discharged the weapon from her position
- She immediately left the ER to the west
- She observed nothing further

The interview was concluded at approximately 0655 hours.

At approximately 0657 hours, I spoke with Registered Nurse (RN) Julie Qashu. While speaking with Qashu, I learned the following:

- She was the primary nurse assigned to the patient (Menard)
- She was unable to verify injuries, due to the patient's belligerent behavior
- Menard smelled of alcohol
- His vital signs were normal
- Menard complained of a shoulder injury and knee injuries, which the attending physician ruled out any injuries due to his violent behaviors
- The trooper left the room at which time Menard stood up and pulled the bed away from the wall
- She asked the trooper return to the room, Menard "got really belligerent"
- She entered the room adjacent to Menard's (room seven), to retrieve gloves to assist
- While inside room seven she heard a loud boom, and observed a hole in the wall, which she determined was caused by gunfire
- She ran to the lobby, allowing Trooper Marotto access to the ER
- She observed nothing further

The interview was concluded at approximately 0710 hours.

At approximately 0715 hours, I spoke with RN Gary Edwards. While speaking with Edwards I learned the following:

- He had no direct interaction with Menard, as Menard became upset at his presence
- He was located at his station on the east end of the nurse's desk near Menard's room
- He was watching monitors and he heard the bed slam
- He stood up to see what had occurred, he observed the trooper had Menard pushed down onto the bed as he heard the shot go off
- He ran to the lobby, allowing Trooper Marotto access to the ER
- He observed nothing further

The interview was concluded at approximately 0721 hours.

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TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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At approximately 0723 hours, I spoke with Doctor Ryan Howard. While speaking with Howard, I learned the following:

- He was the attending physician for Menard
- When Menard arrived at the ER, he exhibited disruptive behavior
- He attempted to calm Menard's behavior, this was unsuccessful
- Menard continued his erratic behavior
- He medically cleared Menard for release from the hospital
- As he attempted to facilitate the release of Menard from hospital's care, he witnessed a physical struggle ensued with the trooper
- He observed as the trooper attempted to subdue Menard who was actively resisting his attempts
- He heard the gunshot and immediately retreated to room three where another patient was being cared for
- He noted as another trooper entered the ER, he heard the trooper announce drop the weapon or I will shoot (announced a couple times)
- After the incident was concluded, he medically discharged Menard
- He observed nothing further

The interview was concluded at approximately 0746 hours.

At approximately 0748 hours, I spoke with RN Constance Proulx. While speaking with Proulx, I learned the following:

- She had no direct contact with Menard but overheard his disruptive behavior
- She observed Menard attempting to pull the stretcher towards the door
- The trooper wrestled with Menard to get him back onto the stretcher
- She was located on east end of the nurse's desk
- During the altercation she heard a loud bang, which registered to her as a gunshot
- She cleared the area and observed nothing further

The interview was concluded at approximately 0755 hours.

At approximately 0756 hours, I spoke with Lab Technician Dena Welch. While speaking with Welch, I learned the following:

- She was called over to the ER to assist with a blood draw at the request of the doctor
- She was unable to complete the draw due to Menard's behavior
- She was located behind the nurse's table
- Menard got out of the bed

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TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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- Using his left arm which was secured to the table, he pulled the bed towards the door
- DPS HP Trooper Allen Hernandez, #10307, took control of Menard, picked him up, and put him on the bed
- She saw both Hernandez's hands occupied attempting to control Menard when the weapon was discharged
- She cleared the area and observed nothing further

The interview was concluded at approximately 0803 hours.

At approximately 0804 hours, I spoke with Admission Clerk Anita Paxton. While speaking with Paxton, I learned the following:

- She was using the restroom at the time the weapon was fired
- She had no direct interaction with Menard but observed his disruptive behavior prior to the gun shot
- She remained in the lobby and did not observe the actual altercation leading to the gunshot or following

The interview was concluded at approximately 0809 hours.

At approximately 0822 hours, I spoke with Benson Hospital patient David Bills. While speaking with Bills, I learned the following:

- He was the patient being treated in room three inside the ER
- He heard the disruptive behavior leading up to the gunshot but did not visibly observe any of it
- After the gunshot, the doctor ran into his room and he asked the doctor if Menard got the trooper's gun, to which he was informed "yeah"
- Moments later he heard audible orders to "put that down" repeated twice

He was still unable to visually see the altercation from his vantage point and did not note any additional commentary

The interview was concluded at approximately 0829 hours.

After completing the interviews, I traveled to the AZDPS office in Benson, where I met with DPS HP Trooper Woolley, #6519. Woolley informed me a search warrant for Matthew Menard's blood had been obtained and he is a certified phlebotomist. Woolley advised he was going to perform the blood draw on Menard.

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TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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Trooper Wooley and I traveled to the Benson Police Department (BPD), located at 360 S. Gila Street in Benson, Arizona, and made contact with Menard. Wooley informed Menard a search warrant for his blood had been obtained. Menard was secured within a restraint chair and Woolley withdrew two tubes of blood from Menard's left arm. The blood draw was performed without incident. Please refer to Wooley's supplemental report for additional information regarding the blood draw.

Upon my return to the AZDPS office in Benson, Det. Boothe and I completed the Victims' Rights forms pertaining to the investigation. I was responsible to serve Victims' Rights to Summerfield, Marotto, and Hernandez. Boothe issued Victims' Rights forms to the hospital staff. Refer to Boothe's supplemental report for further information.

DPS Special Investigations Unit (SIU) Detective Michael Valdez, 7625, requested Boothe and I travel to the BPD to conduct a recorded interview with Menard.

At approximately 1311 hours, I read Matthew Menard his Miranda rights verbatim from a card I keep on my person. I asked Menard if he understood his rights to which he answered "yes." During the interview, Menard stated the following:

- He was working on his car. While he and a friend (Harold, unknown last) were test driving the car it pulled hard to the left and jumped a curb
- He walked to the Quick Pick to request assistance
- When he returned, he noted HP and a tow truck were on-scene
- He was asked to perform field sobriety tests, which he felt he passed
- The trooper attempted to arrest him for driving under the influence and he resisted
- During the altercation on the side of the road, he was tased
- While at the hospital, he pulled the bed towards the door. After he pulled the bed towards the door, the trooper tackled him onto the bed
- He was attempting to get the trooper off him when the gun went off
- He did not know if he caused the gun to fire as it happened during a struggle
- He was hugging the trooper, grabbing ahold of his gun belt in an attempt to free himself from his grasp
- The .25 caliber handgun inside the vehicle belonged to him. He purchased the firearm for his wife for personal protection
- He also owns other firearms as he is an avid hunter
- When asked about the .25 caliber, he stated if he wanted to shoot someone, he would have used his .40
- When asked about guns, he stated he put the .25 in the glove box as "tweaker" deterrent
- He owns an older model .22 caliber rifle
- He owns a .243, some .12-gauge shotguns, and some other handguns

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TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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- He is not restricted from owning firearms
- He is an avid hunter. He works on guns and shoots them frequently
- He resides at [REDACTED]

I asked Menard if he had any questions for me. Menard asked what he was being charged with. I informed him he was being charged with aggravated assault at a minimum. Menard informed he disagreed with the charges. Menard stated he would have understood the driving under the influence charge and maybe one resisting arrest charge. He stated he did not understand the other charges.

After completing the interview, I returned to the AZDPS office in Benson and made contact with the Detective Valdez. I informed Valdez about the information obtained during the interview with Menard. Valdez informed me Matthew Menard was convicted of felony offenses and as such is a prohibited possessor of a firearm.

I was asked to conduct follow-up investigation regarding the firearms located at Menard's place of residence. During the follow-up investigation, a residential search warrant was obtained for his place of residence at [REDACTED] For more information please refer to AZ1800240560.

No Further Information

Detective Name	ID No.	Location	Date	Supervisor
TRAVIS DESKINS	7891	32020100	6/12/18	PAUL MAINE



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This is a supplemental report written by Arizona Department of Public Safety (DPS) Border Strike Force (BSF) Detective Seth Boothe, #6113.

On Sunday, June 10th, 2018, at approximately 0532 hours, I received a call from DPS BSF Sergeant Paul Maine, #4172. Maine called me in reference to an officer involved shooting which had occurred at the Benson Hospital located at 450 S. Ocotillo Avenue, Benson, Arizona. I was advised by Maine to assist with securing the scene.

I responded to the hospital arriving at approximately 0632 hours. Upon arrival, I met with DPS BSF District Commander Captain Benjamin Buller, #5158. Buller and I entered the hospital and went into the Benson Hospital's Emergency Room (ER). Upon entry, I spoke with DPS HP Trooper Bobbie Woolley, #6519. Woolley advised there was an unexpended round and handcuff key sitting on the counter of the room which was taped off. The room taped off should have been room #6. He said the round and key were found on the bed under the suspect, who was identified as Matthew Menard. The unexpended round and handcuff key were located when they removed him to transport him to Benson Police Department, (BPD).

I stood by in the main area near the nurse's station awaiting assignment.

At approximately 0640 hours, Nurse Lucy Harrison arrived and entered the area for her shift.

At Approximately 0643 hours, Dena Welch, a Medical Lab Tech, left and went back to the lab awaiting her interview. Trudy Marks from Healthcare Innovations Inc, (HCI), entered the area at approximately 0646 hours. Marks was checking to see if she was needed and if she was going to be interviewed.

Buller tasked DPS BSF Detective Travis Deskins, #7891, and I with interviewing the hospital staff whom were present during the incident. Deskins and I used Room #8 within the facility to conduct the interviews. Room #8 was a smaller room with minimal equipment and a bed. It appeared to not be used for emergency services. The interviews were audio recorded. The following is a list of start times and the individuals interviewed;

- 0648: Trudy Marks / EMT with HCI
- 0657: Julie Qashu / RN
- 0715: Gary Edwards / CNA-Monitor Tech
- 0723: Ryan Howard / Doctor
- 0748: Constance Proulx, "Connie" / RN
- 0756: Dena Welch / Medical Lab Tech
- 0804: Anita Paxton / Admitting Clerk
- 0822: David Bills / Patient from RM# 3

Detective Name	ID No.	Location	Date	Supervisor
Det. S. Boothe	6113	32020100	06/13/2018	Sgt. P. Maine #4172



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During the course of the interviews, everyone was consistent with the fact Menard was belligerent and cursing from the time he came into the ER until the time he had left the ER. Multiple staff members said Menard had stood up at least one time prior to DPS HP Trooper Allen Hernandez, #10307, confronted him.

When Menard was confronted, he had stood up and pulled the bed he was handcuffed to towards the doorway. Hernandez entered the room to secure Menard. Welch stated she saw both of Hernandez' hands holding Menard down during the altercation. Welch's view of the full altercation would have been blocked by Trooper Hernandez' position.

When the shot was fired, Registered Nurse (RN) Qashu was in room seven retrieving gloves. Room #7 was directly next to the hospital room Menard was in. Doctor (Dr.) Howard was just outside of the door of the room Trooper Hernandez and Menard were in. This would put him next to Room #5 without a clear view into the room. RN Proulx and Edwards were at the end of the nurse's station nearest room seven and Welch was near the center of the nurse's station with a view of the room Hernandez and Menard were in.

When the round was fired, it appeared to have traveled through the wall between room #6 and #7. It appeared to continue through the open door of room #7 and struck the corner to the right of the main entrance, where it came to rest. I did not take measurements or mark the path of the round. The path it appeared to have taken would have been within the width of the walkway between room #7 and the end of the nurse's station closest to where RN Proulx and Edwards were positioned. RN Qashu would have been with in the closest proximity in room #7.

Dr. Howard said, he had medically cleared Menard prior to his release. Menard had complained of asthma, leg pain, and shoulder pain. Menard's oxygen levels were fine. Menard was able to place full weight on both legs multiple times and had moved the injured arm freely multiple times.

The interviews with the medical staff and patient were completed at approximately 0829 hours. Following the interviews, Deskins, DPS Special Investigations Unit (SIU) Detective Michael Valdez, #7625, and I went back to the ER. Once in the ER, a briefing was conducted, and I was redirected to the DPS office in Benson, Arizona, off of N. Adams St.

I left the hospital at approximately 0905 hours and arrived at the DPS office at approximately 0914 hours.

At approximately 0922 hours, I was advised by DPS HP Trooper Martin Tapia, #4015, the tow company had located a .25 caliber handgun in the glove box of the vehicle Menard was driving. I confirmed the call from the tow company, which Trooper Tapia told me about, was made at

Detective Name	ID No.	Location	Date	Supervisor
Det. S. Boothe	6113	32020100	06/13/2018	Sgt. P. Maine #4172



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approximately 0517 hours. I remained at the office until approximately 1010 hours, when Tapia and I went to the Benson Hospital to retrieve Hernandez' patrol car. I returned to the DPS office in Benson at approximately 1019 hours with the patrol car.

Upon returning to the DPS Benson office, I began to fill out the Victim's Rights forms for the hospital staff. The Victim's Rights forms were given to Valdez. After giving Valdez the forms, he requested Deskins and I go to the BPD and interview Menard. Valdez and another detective were still interviewing the troopers involved in the incident.

At approximately 1309 hours, Deskins and I arrived at the BPD. Menard was secured in their holding cell. Deskins removed Menard from the holding cell and escorted him into the interview room. The interview was audio recorded.

Deskins advised Menard of his Miranda Rights at approximately 1311 hours. Menard acknowledge he understood his rights by responding, "Yes". During the interview Menard informed us of the following;

- He was in a car and test driving it.
- The car pulled hard to the left and he jumped the curb.
- His friend Harold (unknown last name) was with him at the time.
- He went to the Quick Pick for help and returned to a tow truck and DPS trooper being there with his vehicle.
- He said he passed the Field Sobriety Test's (FST's) with flying colors and the trooper attacked him.
- The trooper informed him he could smell the odor of an alcoholic beverage emitting from his person.
- Admitted to standing and pulling the bed to the door to ask to use the phone.
- Admitted to being involved in an altercation on the side of the road with Sgt. Summerfield.
- Menard said he was tased at least one time at the arrest location.
- Menard said he was thrown into a car on the floor and was not taken to the hospital in an ambulance. He also said he entered the hospital on a stretcher.
- Menard said during the altercation with Hernandez, he was not sure if he fired the gun. He did admit to hugging Hernandez and reaching for things to get him off.
- He admitted to the handgun being in the glovebox.
- Said he didn't know what he had in his hand during the altercation at the hospital, with Trooper Hernandez. Menard said the items he was grabbing at during the altercation, to get Trooper Hernandez away, felt like an ammo bag and later during the interview he said a can of pepper spray.

Detective Name	ID No.	Location	Date	Supervisor
Det. S. Boothe	6113	32020100	06/13/2018	Sgt. P. Maine #4172



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The interview was ended at approximately 1407 hours. Menard was placed back in the holding cell at the BPD. DPS HP Trooper Jon Drummond, #4231, remained with Menard at the BPD.

Following the interview with Menard. I returned to the DPS office in Benson. I transferred the audio recorded interview files directly to a Universal Serial Bus (USB) thumb drive provided by DPS SIU Detective Rick Ortiz, #6760. The USB was turned over to Ortiz at approximately 1431 hours. After Ortiz received the USB, I was released from the investigation.

This concluded my involvement.

Detective Name	ID No.	Location	Date	Supervisor
Det. S. Boothe	6113	32020100	06/13/2018	Sgt. P. Maine #4172



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AZ1800238888

This report is authored by Arizona Department of Public Safety (DPS), Special Investigations Unit (SIU) Detective Eric Andrews, #7757.

Notification

On Sunday, June 10, 2018, at approximately 0525 hours, I was contacted by DPS SIU Sergeant Jeremy Bulger, #6754, via telephone. Bulger advised an officer-involved shooting had recently taken place in Benson, Arizona, and the DPS SIU had been requested to investigate the incident.

Bulger requested I respond to the Benson Hospital located at 450 South Ocotillo Avenue, Benson, Arizona.

As the acting Sergeant of SIU Squad One, Bulger requested I contact the rest of the squad to find out who was available to respond. I contacted SIU Detectives Mike Valdez, #7625, Robert Olshaskie, #7027, and Rick Ortiz, #6760, and requested they respond to the Benson Hospital as well.

Arrival

At approximately 0815 hours, I arrived at the Benson Hospital. Upon my arrival, I entered the facility through the north ambulance door and entered the emergency room. Inside the emergency room, across two rooms on the east wall labeled as rooms six and seven, I observed yellow police tape blocking entry to the two rooms. I met with DPS Major Crimes District Captain Tim Mason, #4937, who stated we would wait for additional detectives to arrive before beginning the investigation.

Briefing

At approximately 0840 hours, DPS Border Strike Force Captain Benjamin Buller, #5158, conducted a briefing for all investigative personnel on scene. Refer to the DPS SIU Detective Mike Valdez's, #7625, investigative report for further details on information given during this briefing.

SIU Briefing

Immediately following Buller's briefing, Mason conducted the SIU briefing. In the briefing, I was assigned as the lead crime scene detective. Refer to Valdez's investigative report for further details regarding the DPS SIU Detective assignments.

Detective Name	ID No.	Location	Date	Supervisor
Eric Andrews	7757	31030100	06/18/2018	Sergeant Robert Phillips, #6284



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Investigative Actions

At approximately 0954 hours, I took overall photographs of the scene. The photographs included pictures of the exterior of the hospital as well as photos of the waiting room, Emergency Department and patient rooms six and seven.

At approximately 1316 hours, due to unexpected illness, I departed the scene. I did not engage in any other investigative actions after taking scene photographs.

This concludes my involvement in this incident.

Detective Name	ID No.	Location	Date	Supervisor
Eric Andrews	7757	31030100	06/18/2018	Sergeant Robert Phillips, #6284



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This report is authored by Arizona Department of Public Safety (DPS), Special Investigations Unit (SIU), Detective Robert Olshaskie, #7027.

Notification

On Sunday, June 10, 2018, at approximately 0530 hours, I Arizona Department of Public Safety (DPS), Special Investigations Unit (SIU), Detective Robert Olshaskie was contacted by DPS SIU Detective Eric Andrews, #7757, via telephone and requested to respond to the Benson Hospital located at 450 South Ocotillo Road, in Benson, Arizona, to assist with an officer-involved shooting investigation.

Response/Arrival

At approximately 1014 hours, I arrived on scene. I entered the emergency room and observed yellow police tape was strewn across the doorway to exam rooms number six and seven. I observed a command post was established in exam room number five.

SIU Briefing

At approximately 1025 hours, I was briefed on the incident by Andrews. Andrews stated he was assigned as the Lead Crime Scene investigator and I was assigned as the Co-Crime Scene investigator.

For further details regarding the briefing, refer to the investigative report authored by SIU Detective Michael Valdez, #7625.

Investigative Actions

At approximately 1300 hours, DPS SIU Sergeant Jeremy Bulger, #6754, and I received Search Warrant #2018-006072, signed by the Honorable Tracy Nadzieja of the Maricopa County Superior Court, and began to process the scene at approximately 1315 hours.

The search was completed at approximately 1420 hours. Seven items of evidence were collected and labeled as Evidence Items RO1 through RO7. I later placed the evidentiary items into evidence at the DPS Central Regional Crime Lab (CRCL), located at 2323 North 22nd Avenue, Phoenix.

At approximately 1430 hours, DPS SIU Captain Timothy Mason, #4937, and I went to the Mobile Maintenance and Towing, located at 98 Center Way, Benson, Arizona, to recover a handgun. The handgun had been located inside the vehicle by the tow truck operator. Search Warrant #2018-006072 included the vehicle which was identified as a Honda Passenger car

Detective Name	ID No.	Location	Date	Supervisor
Robert Olshaskie	7027	31030100	6/19/2018	Sergeant Robert Phillips, #6284



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bearing Arizona license plate number CFA9576 and VIN# 1HGEJ6128WL078492. The search warrant was signed by the Honorable Tracy Nadzieja, of the Maricopa County Superior Court.

During the search, I located a loaded .25 Caliber handgun in the glove compartment. The gun was labeled as Evidence Items RO8 through RO8.2 and placed into evidence at the DPS (CRCL).

At approximately 1619 hours, I departed the scene and drove to the CRCL.

At approximately 1826 hours, I placed all evidence items into locker #31 at the CRCL for safekeeping.

Tuesday, September 18, 2018

At approximately 1205 hours, I assisted Valdez with conducting an audio recorded interview via telephone with Dena Welch. The interview was concluded at approximately 1222 hours. For information regarding the interview refer to Valdez's investigative report.

At approximately 1253 hours, I assisted Valdez with conducting an audio recorded interview via telephone with Trudy Marks. The interview was concluded at approximately 1312 hours. For information regarding the interview refer to Valdez's investigative report.

This concluded my involvement in this case.

Detective Name	ID No.	Location	Date	Supervisor
Robert Olshaskie	7027	31030100	6/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY
INBOUND EVIDENCE RECEIPT

SUBMISSION INFORMATION

Evidence Relinquished By:
ANDREWS, #7757, ERIC

Agency: Arizona Department of Public Safety

[X] **PIN Entered**

Evidence Received By:
DOUG MYERS

Agency: Central Regional Crime Laboratory

[X] **PIN Entered**

Date & Time: **06/12/2018 14:04**

<u>Agency Case #</u>	<u>Agency Evid #</u>	<u>Lab Case #</u>	<u>Description</u>
AZ1800238888	RJO1	AZ1800238888	Envelope (RJO1) Ammunition Center fire
AZ1800238888	RJO2	AZ1800238888	Box (RJO2) FNH USA LLC Pistol Automatic action
AZ1800238888	RJO3	AZ1800238888	Envelope (RJO3) Ammunition Center fire
AZ1800238888	RJO4	AZ1800238888	Box (RJO4) FNH USA LLC Pistol Automatic action
AZ1800238888	RJO5	AZ1800238888	Envelope (RJO5)
AZ1800238888	RJO6	AZ1800238888	Envelope (RJO6) Electric shock gun Taser
AZ1800238888	RO2	AZ1800238888	Envelope (RO2) Machinery/tools Keys (all types) HANDCUFF KEY
AZ1800238888	RO3	AZ1800238888	Envelope (RO3) Ammunition Center fire
AZ1800238888	RO4	AZ1800238888	Envelope (RO4) Ammunition Center fire
AZ1800238888	RO5	AZ1800238888	Envelope (RO5)
AZ1800238888	RO6	AZ1800238888	Envelope (RO6) PEERLESS Personal Handcuffs HANDCUFFS
AZ1800238888	RO7	AZ1800238888	Envelope (RO7) Ammunition Shell casing
AZ1800238888	RO8.2	AZ1800238888	Envelope (RO8.2) Ammunition Center fire
AZ1800238888	RO8	AZ1800238888	Box (RO8) Pistol Bolt action

Total Package Count: 14



ARIZONA DEPARTMENT OF PUBLIC SAFETY
INBOUND EVIDENCE RECEIPT

SUBMISSION INFORMATION

Evidence Relinquished By:
ANDREWS, #7757, ERIC

Agency: Arizona Department of Public Safety

[X] **PIN Entered**

Evidence Received By:
DOUG MYERS

Agency: Central Regional Crime Laboratory

[X] **PIN Entered**

Date & Time: **06/12/2018 14:12**

<u>Agency Case #</u>	<u>Agency Evid #</u>	<u>Lab Case #</u>	<u>Description</u>
AZ1800238888	RO1	AZ1800238888	Box (RO1) MERRELL Personal Boots/shoes

Total Package Count: 1

ARIZONA DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM



FRANK L. MILSTEAD
DIRECTOR

DATE: June 26, 2018

TO: Todd Whittard, #4824

FROM: Detective Michael Valdez, #7625

SUBJECT: FIREARMS EXAMINATION, DPS DR AZ18238888

FOR: ☒ Action ☐ Decision ☐ Information ☐ Signature

Mr. Whittard,

The following is a list of analysis I'm requesting in regards to evidence collected from an officer-involved shooting, which occurred in Benson, Arizona, on 06-10-2018. The shooting involved two Department of Public Safety Troopers. I am respectfully requesting the following analysis be completed on the following items:

Weapons Function Test:

1. RJO2 – FNH FNS Long Slide .40 caliber handgun, serial #GKU0121801.
2. RJO4 – FNH FNS Long Slide 9-millimeter handgun, serial #GKU0139346.
3. RO8 -- GT27 Pistol .25 Caliber, serial #MI97374

I would like the opportunity to discuss details regarding the investigation with you prior to the testing. Please contact me at your earliest convenience. Thank you.

A handwritten signature in black ink, appearing to read "Michael Valdez".

Detective Michael Valdez, #7625
Arizona Department of Public Safety
Criminal Investigations Division
Special Investigations Unit

mvaldez@azdps.gov
Cell: [REDACTED]



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SUPPLEMENTAL REPORT

DR NUMBER:	AZ1800238888
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This supplement was authored by Arizona Department of Public Safety (DPS) Special Investigations Unit (SIU) Detective Rick Ortiz, #6760.

On Sunday, June 10, 2018, at approximately 0557 hours, I was contacted by SIU Detective Eric Andrews, #7757. Andrews informed me of an officer involved shooting at the Benson Hospital.

Arrival/ SIU Briefing

At approximately 0916 hours, I arrived at the Benson Hospital, located at 450 South Ocotillo Avenue, Benson, Arizona, 85602. An SIU Briefing was given by the Major Crimes District Commander, Captain Timothy Mason, #4937. I was assigned as the co-case detective for the investigation. SIU Detective Michael Valdez, #7625, was assigned as the case detective. For the complete briefing, refer to Investigative Report.

Investigative Actions

Valdez and I traveled to the DPS Benson office located at 2599 East Tacoma Street, Sierra Vista, Arizona. I authored an Affidavit in support of a Search Warrant for the Benson Hospital as well as a vehicle located at the Mobile Maintenance and Towing LLC, located at 98 North Center Way, Benson, Arizona. Search Warrant #2018-006072, was signed by the Honorable Tracy Nadzieja of the Maricopa County Superior Court.

I assisted Valdez with conducting interviews with DPS Trooper Joshua Marotto, #10462, Allen Hernandez, #10307, Bobbie Woolley, #6519, Brent Haymore, #7670, and DPS Sergeant Brian Summerfield, #5709. For further information, refer to Investigative Report.

I assisted Valdez with the collection of Marotto, and Hernandez' pistols as evidence. All evidence was turned over to SIU Detective Robert Olshaskie III, #7027. For further refer to Olshaskie's supplemental report

On Wednesday, June 13, 2018, I returned Search Warrant #2018-006072 along with an inventory to the Maricopa County Superior Court.

This concluded my involvement with the investigation.

Detective Name	ID No.	Location	Date	Supervisor
Rick Ortiz	6760	31030100	6/10/18	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY
SUPPLEMENTAL REPORT

DR NUMBER:	AZ1800238888
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On Sunday, June 10, 2018, at approximately 0534 hours, I, Arizona Department of Public Safety (DPS), Criminal Targeting Unit (CTU), Detective Adriana Marshall, #6332, was contacted by DPS CTU Sergeant Paul Maine #4172. I was advised to travel to the Benson Hospital to assist with scene security for an officer involved shooting.

At approximately 0653 hours, I arrived at the Benson Hospital located at 450 S. Ocotillo Avenue in Benson, Arizona. I contacted DPS Captain Benjamin Buller, #5158, who advised for me to relieve DPS Patrol Trooper Bobbie Woolley, #6519, of the Incident Command System Log position. I continued to document names, notate entry, and exit times for the remainder of the time until I was relieved at approximately 1354 hours.

This concluded my involvement in the investigation.

Detective Name	ID No.	Location	Date	Supervisor
Adriana Marshall	6332	32020100	07/02/2018	Sergeant Paul Maine, #4172



Supplemental Report

Incident Number: **AZ1800238888**

Author: #5158 BULLER, B.

Over View:

This supplement has been prepared by Arizona Department of Public Safety (DPS) Captain Benjamin Buller, #5158, to document his participation as Incident Commander during an investigation involving a DPS Trooper who was involved in a physical altercation where his firearm was discharged.

On June 10, 2018, Captain Buller assisted with an investigation involving a physical altercation at the Benson Hospital between Trooper Hernandez and Matthew Menard, who was under arrest, which resulted in the discharge of Trooper Hernandez' handgun. Because of the incident, Captain Buller responded to the scene and acted as the Incident Commander, managing the crime scene, requesting, and deploying resources, and ensuring the activities at the scene were documented, working closely with personnel on scene.

The specific relevant direction given by Captain Buller during the investigation is documented in a CAD report and on an Incident Command Log, which was provided to DPS Special Investigations Unit (SIU) Detectives.

Incident Command:

On June 10, 2018, at approximately 0540 hours, Captain Buller received a telephone message from Captain Mason, and was notified Trooper Hernandez had been involved in a physical altercation at the Benson Hospital which resulted in the discharge of Trooper Hernandez' handgun. Captain Buller, who was at his residence responded to the scene.

Once on scene, Captain Buller assumed Command, acting as the Incident Commander. Upon his arrival, Captain Buller observed several DPS Troopers and vehicles in the parking lot of the Hospital.

Captain Buller received a briefing from Sergeant Summerfield and learned some preliminary information about the incident.

Captain Buller walked the scene, and found DPS Trooper Bobbie Woolley #6519, acting as scribe.

As the scene was secured, Captain Buller remained on scene until the case was turned over to the AZDPS Special Investigations Unit, to support the investigation and ensure command and control. The directives given by Captain Buller are documented on the Incident Command Log and in the CAD report.

NFI



Arizona Department of
Public Safety

Incident Number: **AZ1800238888**

Author: #5158 BULLER, B.

Supplemental Report Continued

**CRIMINAL INVESTIGATION
DR # AZ1800238888**

ARIZONA DEPARTMENT OF PUBLIC SAFETY

AGGRAVATED ASSAULT/ ATTEMPTED HOMICIDE



**COMPILED BY:
THE ARIZONA DEPARTMENT OF PUBLIC SAFETY
SPECIAL INVESTIGATIONS UNIT
DETECTIVE MICHAEL VALDEZ, #7625
2102 WEST ENCANTO BOULEVARD
PHOENIX, ARIZONA 85009**

INTERVIEW WITH OFC. JOSHUA MAROTTO

Q=Det. Michael Valdez

Q1=Det. Rick Ortiz

Q2=(Michael Pang)

A=Joshua Marotto

Q: Okay, today's date is Sunday, June 10. It's approximately 11:23. I'm Detective Michael Valdez, Badge Number 7625, with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: (Rick Ortiz), uh, Badge Number 6760.

Q: This is in reference to an Arizona Department of Public Safety Report Number AZ1800238888, an officer-involved shooting, which occurred at the Benson Hospital located at 450 South Ocotillo Avenue. This occurred on the 10th day of June (06-10-18) at approximately 0048 hours to 0049 hours in Emergency Room 6. We are interviewing...

A: Trooper Marotto - Joshua Marotto.

Q: And for the record, can you say and spell your name, please?

A: Joshua -- J-O-S-H-U-A, Marotto -- M-A-R-O-T-T-O.

Q: All right, and your Badge Number, please?

A: 10462.

Q: And also present is...

Q2: Uh, Attorney (Michael Pang) from the Law Firm of Yen, Pilch and Landeen, attorney for Trooper Marotto.

Q: Okay. Um, and just so you understand this is a voluntary interview. Just, uh, lookin' to get your side of the story. Um, and before we begin, were you present at this location when the incident occurred?

46

47 A: I was.

48

49 Q: Okay, go on, um, go ahead and tell me what happened.

50

51 A: Okay, we were, um, I was in Wilcox and I was dispatched to a vehicle
52 collision here in Benson. There were no other units available. Uh, we arrived
53 and were dealing with that collision when another collision was called out at
54 milepost 297 westbound. Um, Sergeant, uh, Summerfield 920 signed on and
55 was coming out to assist us with our first collision, when he then diverted and
56 went to 297. Uh, I could hear over the radio after he was out on-scene for a
57 few minutes that, uh, it was a possible, uh, DUI, DWI. Um, not too long after
58 that he called for additional units to respond to help him, uh, that he was, uh,
59 fighting with the subject. Uh, we were unable to leave the scene, um, he then
60 had, um, and while he was in route to the collision. He called for, um, he
61 called out a Trooper that was at home, um, and by the time he called for his
62 assistance, uh, Trooper's roughly, uh, already in route. Um, once he arrived
63 they apprehended the subject and took him to Benson Hospital. Um, Sergeant
64 Summerfield then came out to my scene and, uh, I assisted with moving a
65 patrol car that was left at the other collision to the hospital, so I drove, um, a
66 vehicle from 9, uh, 297 to Benson Hospital. Upon arrival there I walked inside
67 to give the Trooper his keys. Um, I could hear the subject was, um, being
68 pretty belligerent with the Trooper speakin' with him. Um, he was handcuffed
69 to the bed. Uh, we walked back out to, uh, the patrol cars in the parking lot,
70 um, to begin a search warrant for blood on the subject. Trooper Hernandez
71 advised us via car-to-car that the hospital had, um, medically released him for
72 incarceration, so I went inside to assist, uh, Hernandez with bringin' him out
73 to the patrol vehicle, so we could transport him.

74

75 Q: And so initially Trooper Hernandez was the one that was inside that you are
76 referencing?

77

78 A: Correct.

79

80 Q: Okay.

81

82 A: And he was in there alone...

83

84 Q: Okay.

85

86 A: ...at that time.

87

88 Q: Okay.

89

90 A: Um, upon makin' entry into the Benson Hospital, uh, to control the access

91 door you have to get buzzed in, or have a (mag) key. I don't have a (mag) key.
92 Um, I was leaning towards the window for the, uh, receptionist or nurse
93 behind it. When I could see even at that time, lots of smoke, um, in the back
94 area around the patients, and, um, where I had been previously, where I
95 dropped off the keys with the Trooper which was near the suspect, um, it was
96 almost immediately as I was lookin' through the glass I saw the smoke, and
97 then nurses were running towards the controlled access door to exit. They
98 were yelling at me, um, "The Trooper needs help, something was shot." Um, I
99 ran into the room to see what was goin' on, and I immediately saw Trooper
100 Hernandez holding, um, the suspect's hand, and the suspect also had Trooper
101 Hernandez's gun in his hand. Um, Trooper Hernandez had the gun and hand
102 mostly pinned to the hospital bed, but the barrel was facing me - facing and
103 pointing at me as I entered through the doorway into the hospital room. Um, I
104 then went to Hernandez's right side to try and control the suspect's upper
105 body. Um, I immediately just kinda put my thumb as far into his, uh,
106 mandibular angle as I could, um, I didn't throw any strikes at that time. Um, I
107 just sunk my thumb in as hard as I could. Um, the suspect then started
108 responding, "I have asthma, are you really gonna fuckin' choke me out right
109 now?" Um, I yelled for - radioed for 1091 over the radio. I drew my weapon
110 and put it to the suspect's left, uh, upper rib area. Um, it was bare to his flesh.
111 Um, he either didn't have a shirt on, or it was moved up quite a bit during the
112 scuffle, but I know I was pressed up against his flesh. Um, I put the barrel up
113 against him 'cause I knew that Hernandez was in the room as well, and I
114 didn't want Hernandez to possibly get injured or get in the way of me firing
115 the weapon. Um, Hernandez was still giving him commands to drop the
116 weapon, they were still struggling with it at that time. Uh, it was - after
117 viewing the cad logs I could see that it was only a minute apart, basically,
118 from the time that I entered the room to when, um, I had already holstered and
119 told them that shots had been fired from Hernandez's weapon, but it felt, like,
120 quite a long time. Um, even though I took all of those steps, um, from
121 applying the - my thumb into his neck, calling for a 1091, putting the gun to
122 his back, um, I had it pressed into his skin so tightly though that it, uh, took
123 my gun out of battery and so when I did pull the trigger it did not fire. Um, I
124 pulled the gun away I tap racked, and at that time, um, Hernandez was sayin',
125 "Holster, holster." Uh, that he had basically, um, uh, was able to get the gun
126 from the suspect's hand. Um, I don't know if the suspect had let go or what
127 occurred, but the weapon was free of the suspect. I holstered at that time, um,
128 and put out that, uh, shots were fired. And, um, not much longer after that, uh,
129 Troopers from the parking lots had entered the room and began to control the
130 suspect. Um, I allowed them to basically maintain control of the suspect. I
131 released my control and walked out of the, um, suspect's hospital room,
132 basically, just right into the immediate hallway, um, to kinda of separate
133 myself from the incident.
134

135 Q: Did you, uh, take part in takin' the suspect into custody again?

136
137 A: Um...
138
139 Q: Did you hand- - help handcuff the suspect...
140
141 A: No.
142
143 Q: ...or...
144
145 A: No.
146
147 Q: And, uh, prior to all that, when you were in the waiting room did you - did
148 you hear or see, uh, any of the gunshots?
149
150 A: I did not hear the gunshot. Um, I don't know if the window for the
151 receptionist is bulletproof or soundproof or anything. I didn't hear it, but I saw
152 and I could visually see that there was, um, that hallway - it's not really a
153 hallway it's a very quick hallway into patient rooms. Um, I could see that the
154 whole area was filled with smoke, and I could see by the looks on their faces
155 that something was definitely wrong. And then as I said they, uh, were
156 running for that controlled access door.
157
158 Q: Rick...
159
160 Q1: Um, real quick going back to before you left the hospital the first time you
161 said he was bein' belligerent. What was he sayin'?
162
163 A: So, um, he was saying, um, uh, Trooper Haymore was in there speaking with
164 him, um, I could hear he was very mono-toned, very calm. I believe that we
165 were trying to, um, and I don't know for sure, but I believe from what I could
166 hear, because again he was being a little, uh, you know, just calm and quiet,
167 um, and I was out in the hallway. It sounded as though we were attempting to
168 gain, um, consent for a blood draw to begin with, um, so Trooper Haymore
169 was tryin' to build some rapport and get that done. Uh, but he was yellin' that,
170 um, "Your boss violated my civil rights. He arrested me for nothing. I passed
171 the fucking DUI test. Um, uh, and then he assaulted me by tryin' to arrest
172 me," something to that effect.
173
174 Q1: Uh, and then after you finally get in after the shot was fired and all the smoke
175 and the nurses let you in after you finally get in, um, can you describer very
176 specifically what you saw as soon as you turned that corner into the room?
177
178 A: So the - the way the hallway is set up, the s- - room that the suspect was in is
179 the, um, last one on the right. So as I'm comin' down the hallway I can kinda
180 get, um, a slice in the pie, if you will. You can kinda see into the room before

181 you're entering and, um, I can see that the suspect is still on the bed. Um, he
182 has his left hand handcuffed to the hospital bed, but the right hand has the
183 weapon and it's pointed out towards all of the other, uh, nursing staff and
184 again, in order for me to break through the threshold I had to cross in front of
185 the weapon while it was pointed at me. And then Hernandez had his hand on
186 top of it, um, and then I moved to the top of the suspect at that time.

187
188 Q1: Okay, um, what is a 1091?

189
190 A: A 1091 is a, um, a Trooper request for immediate assistance and they need an
191 urgent response. Um, basically, a dire situation and they need help now.

192
193 Q1: And why did you feel the need to call a 1091?

194
195 A: Because we were struggling with the suspect. Um, I didn't know if Trooper
196 Hernandez or any of the other staff had been shot, or even the suspects. I
197 could, uh, tell by the smoke and by the nurses telling me something was shot,
198 I didn't know even at that time if it was a taser or a gun, but, again, the
199 visualization from the smoke and seeing them, uh, fighting over the gun
200 definitely just reaffirmed that, uh, it was a gunshot. So, um, again, not
201 knowing who was hurt, if anyone, um, if - I didn't know if his gun was still
202 operable or inoperable. Um, I was in fear that another round may go off, so I
203 requested for immediate assistance to hopefully, uh, get the gun from the
204 suspect and, uh, you know, stop any potential harm.

205
206 Q1: And you said during the struggle you're taking your gun out, put the gun on
207 the suspect's chest and you pull the trigger.

208
209 A: Uh, not - not so much to his chest, it was more of his, um, like, his upper left
210 rib - more towards the back than the front.

211
212 Q1: Okay.

213
214 A: 'Cause he was - he was sitting up on the bed, uh, by that time, and he was
215 more like this, so I was up towards this area, 'cause that's what was exposed,
216 which would be, like, the high right back, uh...

217
218 Q1: Okay.

219
220 A: ...rib area.

221
222 Q1: Um, why did you pull the trigger?

223
224 A, So, again, based on he was still struggling with the weapon, it had already
225 been discharged once. Hernandez was still giving out the commands, "To

226 drop the weapon, drop the weapon. He's got my gun." Um, I had no idea if it
227 was gonna go off again, or if one of us were gonna be killed, or any of the
228 nursing staff. And my only thought that would stop the threat as quickly as
229 possible and safely to prevent harm to others and life was to pull the trigger.

230
231 Q: While you were in the room, uh, with them did Trooper Hernandez or, uh, the
232 suspect with you share any dialect?

233
234 A: Um...

235
236 Q: Or dialogue I'm sorry.

237
238 A: Yeah, um, I can recall the nursing staff stating, "The Trooper needs help,
239 something was shot." I remember running in, I don't remember a lot of noise
240 during that. I didn't hear a gunshot while I was in the lobby. Um, I don't
241 remember hearing noises of them struggling. Um, I could visually see it. Um,
242 the next thing I recall hearing would be when I shoved my thumb into his
243 neck, and him stating that he has asthma. And, um, uh, and then at that time I
244 can recall hearing Trooper Hernandez giving him commands to drop the gun,
245 "He still has the gun." Um, but between the two of them I don't remember any
246 dialogue between the two of them. It was mostly him yelling at me about, uh,
247 putting my thumb into his neck.

248
249 Q: Did you say anything to the suspect, or give any commands?

250
251 A: Um, I - I did, um, um, I want to say it was probably simultaneously. As I was
252 drawing I said, "Drop the fucking gun," um, I may have said it a few more
253 times, but I know I said it at least once. I'm not 100% on how many times I
254 said it, but, uh, I did also give him verbal command at least to drop the gun.

255
256 Q: And did the suspect react to any of your statements or commands?

257
258 A: He never verbalized anything to me, other than me - when I put my thumb in
259 his throat.

260
261 Q: And, uh, physical actions of the suspect at that time, did you - did you observe
262 or notice any changes in his actions, demeanor, uh, as you guys were giving
263 him commands?

264
265 A: So he was not responding to Trooper Hernandez's commands, which, um,
266 within that split second that's when I decided to draw, um, and give him
267 commands as well. Again, at that time he was sitting up, um, and I guess - so
268 there - there weren't changes in his behavior as far as listening to the
269 commands. Um, but I would also say he had a lack in behavior, as far as a
270 response to me telling him to drop the fucking gun, me having my gun pressed

271 against him, um, and him not responding, even though I was kinda - I was
272 fixated in on where I had the gun placed, as to not harm Trooper Hernandez. I
273 could still see that his head was forward, which was his vision would have
274 been in the direction of his right hand struggling with the weapon rather than
275 dealing with me giving him commands, and/or wanting to obey those
276 commands.

277
278 Q1: Uh, is there anything the suspect could have done to make you not feel the
279 need to pull the trigger?

280
281 A: Um, if he would have dropped the weapon sooner, um, if he would have said,
282 "Okay, I give up," or brought up his right hand free of the weapon, um, listen
283 to any of the verbal commands that were given, um, then definitely I would
284 not have pulled the trigger at that point.

285
286 Q: And when you were - when you first entered the room did you, uh, based off
287 of maybe training or experience observe any signs of impairment initially with
288 the suspect, or, uh, medical conditions that you would have observed prior to
289 that?

290
291 A: Um, I didn't observe him, uh, having any - not - not during that time. Um, it
292 was far too quick, there were a lot of other things goin' on. Um, the room
293 reeked, he smelt really bad, uh, but I mean I never got a chance to look at his
294 eyes, or anything to that extent.

295
296 Q: And when you say he smelt bad is that a - a body odor, or...

297
298 A: Yeah, body odor, um, I mean almost maybe, like, he hasn't showered in days,
299 uh, he just reeked. Might have been, um, from, um, you know, they were
300 doin' the investigation for alcohol, so it could have been, um, sweat, you
301 know, with alcohol involved in it, um, but don't know that for sure, but, uh, it
302 - he smelt real bad. Um, I did not see any signs of impairment at that point,
303 other than knowing, you know, going into the room that the Sergeant was out
304 with him previously for possible DUI or DWI.

305
306 Q: So when - when this is all said and done, you exited the room, where did you
307 go from there?

308
309 A: I basically just stepped maybe two to three feet, um, immediately outside the
310 door, um, to let the responding Troopers handle the incident. Um, I felt that,
311 you know, I was involved with, you know, what occurred, um, I knew that I
312 did pull my trigger, so I knew that, uh, at that point I should remove myself
313 from the scene to allow people who weren't involved in that situation kind of
314 handle him at that point. We also had, um, Benson PD and Cochise County
315 Sheriff's Department - Sheriff's Office, uh, arrived on-scene as well. So again

316 just bein' involved in the situation I felt, you know, I could remove myself
317 and let people who were not involved in that, uh, deal with him at that point.
318
319 Q: And, uh, since holstering your weapon in the room have you manipulated it in
320 any way?
321
322 A: Um, I did remove the, uh, while it was holstered I removed the magazine once
323 just to ensure that, uh, I was only missing the one round, and then I pushed the
324 magazine back into the weapon.
325
326 Q: The same magazine that you had in...
327
328 A: Correct.
329
330 Q: Okay.
331
332 A: From my - yeah, from the - from the gun in my hand, from my hand right
333 back into the gun.
334
335 Q: Okay. And, uh, prior to this in- - this, uh, call altogether you were already on-
336 duty?
337
338 A: Yes.
339
340 Q: Okay. And, uh, what are your normal hours of, uh, shift?
341
342 A: 1400 to midnight.
343
344 Q: And, uh, days?
345
346 A: Uh, Wednesday through Saturday.
347
348 Q: Okay.
349
350 Q1: Uh, just real quick, I know we asked you off record again, what, uh, caliber
351 weapon system do you have?
352
353 A: It's a, uh, FN40.
354
355 Q1: Okay.
356
357 Q: All right, uh, do you have any questions for us?
358
359 A: No, I don't.
360

361 Q: Okay. Do you have anything, sir?

362
363 Q1: Uh, no, sir.

364
365 Q: We're gonna go ahead and conclude, it's 11:45.

366
367
368 The transcript has been reviewed with the audio recording submitted and it is an accurate
369 transcription.

370 Signed _____

INTERVIEW WITH OFC. ALLEN HERNANDEZ

Q=Det. Michael Valdez

Q1=Det. (Rick Ortiz)

Q2=(Michael Pang)

A=Ofc. Allen Hernandez

Q: All right, today's date is Sunday, June 10, 2018. It's approximately 11:54. I'm Detective Michael Valdez, Badge Number 7625 with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: Uh, (Rick Ortiz), Badge Number 6760, also with Special Investigations.

Q: This is in reference to AZDPS Report Number AZ1800238888, an officer-involved shooting, which occurred at the Benson Hospital located at 450 South Ocotillo Avenue. This occurred on June 10, 2018, at approximately 4 - oh, excuse me, 0408 hours to 0409 hours in Emergency Room 6. Uh, we're interviewing Trooper Hernandez, is that correct?

A: Yes.

Q: Uh, and for the record can you please say and spell your name?

A: So it's - full name?

Q: Yes.

A: All right. So it's Allen Hernandez, Adam-Lincoln-Lincoln-Edward-Nora, Hernandez Henry-Edward-Robert-Nora-Adam-Nora-David-Edward-Zebra.

Q: And your badge number?

A: 10307.

Q: Okay, and for the record you were present at this location, uh, being the hospital when this all occurred, correct?

46 A: Correct.

47

48 Q: All right, go ahead and tell me what happened.

49

50 A: Okay, so I was, uh, backing up a supervisor, Benson - Sergeant - Sergeant, uh
51 Summerfield on a - at first it was a 964, but it turned out to be a Code 34. I
52 went off the road. Sergeant Summerfield arrived on the scene and then he
53 notified that the person was - is a possible DUI. So at the time I was doing a
54 wide load. We reached our destination, the wide load, and I was lookin' at the
55 cad log. And then I saw that, um, the cad log be - there was a fight, or the
56 Sergeant said that he was in a fight. I heard the radio, um, being hold until
57 they had a - a Code 4. So after that I cleared myself from the wide load and I
58 notified Dispatch that I was 1019 to his location from, uh, I don't know the
59 exact exit. I don't know if it's - it's before the (Hofton) exit. And...

60

61 Q: Okay, and this is - you said (Houghton) in Tucson, is that correct?

62

63 A: Right, it's - it's before (Houghton).

64

65 Q: On I-10?

66

67 A: Mm-hm.

68

69 Q: Okay.

70

71 A: And so then I - I notified Dispatch that I was en-route to go back him up.

72

73 Man: (Unintelligible).

74

75 A: And I went there, uh, with lights and sirens. And then I arrived on-scene.
76 When I arrived on-scene, uh, there was a man in the - in the ambulance, with a
77 gurney inside he ambulance.

78

79 Man: (Unintelligible) hit and run?

80

81 A: And he was bein' uncooperative, and Sergeant Summerfield was okay. Uh,
82 Trooper Haymore was on-scene prior to me arriving. Uh, at that point, um...

83

84 Man: (Unintelligible).

85

86 A: Trooper Haymore went into the ambulance, and I escorted them behind my
87 patrol vehicle, in case the, uh, prisoner became combative and they had to get
88 assistance. So then we went into the - we arrived at the hospital. The man was
89 still uncooperative yelling and screaming, and we tried to, uh, talk to him and
90 calm him down. I stepped outside. The Off- - then Trooper Haymore spoke to

91 him, and at this point he wa- - he was handcuffed to the bed, 'cause he was,
92 uh, arrived onto the gurney and they put him on the bed, they handcuffed him
93 with his left hand.
94

95 Man: No.

96
97 A: And...

98
99 Man: No.

100
101 A: ...then, uh, Sergeant Summerfield arrived later on, and he stepped away. He
102 didn't want the prisoner to see him because he was gonna get more combative,
103 'cause he was already upset with him, uh, from the previous encounter that
104 they had on the side of the road.
105

106 Man: (Unintelligible).

107
108 A: So, uh, they all went outside. I stayed with the prisoner...

109
110 Man: (Unintelligible) four.

111
112 A: I stayed with the prisoner, 'cause obviously he was in custody, so we had to
113 have eyes on him. And...

114
115 Man: (Unintelligible).

116
117 A: ...he wanted a phone, so he was yellin' and screamin' at the nurse and the
118 medical staff. And then a female got out of her chair, she walked to the, um,
119 guy's office, or was Emergency Room 3, or is that the room number...

120
121 Q: Uh...

122
123 A: ...that you mentioned?

124
125 Q: 6, I believe.

126
127 A: Or 6. So she walked in and she told him that, "You know, just calm down,
128 relax, there's other patients," and then she walked away.
129

130 Man: (Unintelligible).

131
132 A: He didn't like that answer, so...

133
134 Man: (Unintelligible).

135

136 A: ...he got out - out of his ch- - um, out of the bed. He was still handcuffed to the
137 bed, but he unlocked the bed, so the bed could move. And so he started pullin'
138 on the bed and tryin' to walk. So I told him, "Hey, calm down, relax." He
139 started yellin' at me. I told him in a calm way, in the calm tone manner, "Hey,
140 you need to calm down I'm not yellin' at you, so you need to just calm your
141 voice and calm your tone, because there's other people here. And then he told
142 me, "Well I want a phone." And I said, "Well, we're tryin' to help you out,
143 but we're tryin' to make this experience less stressful than what it is for you."
144 And...

145
146 Man: (Unintelligible).

147
148 A: And then the doctor came in and he told me, "Hey, you know what? He's -
149 he's medically cleared. If he's actin' this way, he's walkin' around, obviously,
150 he - he's good to - to go. There's no reason to keep him here."

151
152 Man: (Unintelligible).

153
154 A: So then I got on the radio and I notified, uh, Trooper Haymore, I said, "Hey,
155 um, doctor cleared him so we're good to go." At that point he got out of the
156 bed and he became combative - well, um, uncooperative, yellin' and
157 screamin'. At that point I went into the room, I put my hand on his chest and
158 told him, "Hey, calm down, have a seat." And then he, uh, said something
159 along the terms about, "Hey, you want - so are we gonna go - are we gonna go
160 at it?" And then from there, uh, we be- became combative. Well he became
161 combative towards me and then we went hands-on with each other. He, uh, he
162 leaned against me and I was tryin' to control him, 'cause he had his right hand
163 free at this - at the time, and he reached over, uh, towards my, um, waist, and I
164 was tryin' to grab him. And at that point he managed to grab the firearm from
165 the holster and he pulled the trigger. And the gun was not completely out of
166 the holster, it was just enough for him to put his hands on the trigger and press
167 it. At that point, uh, I looked and he looked and he, um, we had, like, a - a
168 second of we were just, um, surprised.

169
170 Man: (Unintelligible).

171
172 A: And at that point I grabbed his hand and I started, uh, fighting with it - with
173 his hand, so he can let go of the - of my firearm, so I can get control of it. And
174 at that point - at some point during that altercation the - the ejection from the
175 magazine got released. I don't know if I did it when I grabbed the firearm, or
176 when he was tryin' to fight with - with a - with the firearm, but the magazine
177 was released. I saw that the other round, the chamber was facing vertical, not
178 horizontal, so the gun was, uh, was jammed...

179
180 Q: Mm-hm.

181
182 A: ...by the extra - by the other round. And so with my left hand I - I still grabbed
183 his - his, uh, right hand...
184
185 Man: (Unintelligible).
186
187 A: ...'cause he was still fighting with - for the firearm, and then I started
188 punching him with my right f-, um...
189
190 Man: He walked in.
191
192 A: ...my fist - right hand fist, uh, multiple times until he finally let go. At that
193 point, or at some point in that, um, that situation, um, Trooper, um...
194
195 Man: (Unintelligible).
196
197 A: ...uh, man, I forgot his name, wa- - the other Trooper came in. Sorry.
198
199 Q1: Marotto?
200
201 A: Marotto, yeah, Trooper Marotto came in, and he was helping me, uh, get, um,
202 have him get released of the - the firearm, so Trooper Marotto had his hand,
203 uh, um...
204
205 Man: (Unintelligible).
206
207 A: ...this is the...
208
209 Man: (Unintelligible).
210
211 A: ...by the chin like. He - he put his, uh, thumb as a pressure point so he can
212 release him at the same time. Then after that he knew that, okay, that wasn't
213 helping. So he drew his firearm on him and he put - and told him, like, "Drop
214 - let go of the gun, let go of the gun," and I didn't notice at the time, but he
215 later told me, um, that the battery for the firearm, uh, I'm not too familiar with
216 firearms, or - or the terminology, but he said that with the pressure that he had
217 on him it pulled, uh, the firearm or the rack back, so - 'cause he - he told me
218 that he tried to press the trigger, but it wouldn't go 'cause of the battery. So I
219 don't know, again, the terminology of that. But at that point, uh, he finally
220 released the firearm. Uh, I cleared it and I put the firearm on the side. It was
221 on a chair or a - one of those, um, tables where the nurses put the syringes and
222 needles, when they're about to poke somebody. So I don't know if it was a
223 chair or a table, but I put it there. I grabbed my hinge cuffs and I grabbed his
224 right hand and I cuffed him to the - the bed, so that way he didn't have
225 nowhere to stand or move. And so the only thing he could do was just kick. At

226 that point I grabbed my gun and I cleared it, put it in my holster, and then I
227 grabbed the magazine and I put it in my pocket. After that, um, everybody
228 else came in, or the other Officers that were outside they came in. Uh, radio
229 was notified that there were shots fired, that it was Code 4. Um, we looked at -
230 to see where the round went to and it didn't hit nobody, it just went through,
231 uh, multiple walls and just went out. And started just, uh, analyzing what
232 happened, so...

233
234 Man: (Unintelligible).

235
236 Q: So when the round went off, your gun was still partially in the holster?

237
238 A: Yes.

239
240 Q: And then at some point it got fully, uh, it was taken fully out of the holster,
241 and, basically, you were fighting over the gun with him?

242
243 A: Yes, I was.

244
245 Q: So the gun was out completely in the open?

246
247 A: Mm-hm.

248
249 Q: Okay. Did he make any statements to you as he was fighting, uh, as you were
250 both fighting over it?

251
252 A: Yeah, after that I - after we - we got done with fighting he said, "I told you I
253 was a police officer." And that was what he said.

254
255 Q: When you got done fighting?

256
257 A: Mm-hm.

258
259 Q: But as you were fighting did - did he make any...

260
261 A: He didn't - he didn't do anything. He wasn't saying anything, we were just,
262 um, you know, crunchin' teeth and makin' noises, you know, typical noises
263 that when - people do when they're fighting.

264
265 Q: And did you give him commands, or give him any instructions as you were
266 fighting?

267
268 A: No.

269
270 Q: You didn't say, "Stop," or...

271
272 A: Mm-mm. I was tryin' to put all my attention on tryin' to take the - the weapon
273 out of his hand. That way, um, everybody's safety was - could be ensured.
274
275 Q: Okay.
276
277 Man: (Unintelligible).
278
279 Q: Go ahead.
280
281 Q1: Uh, just to clarify real quick, when you said...
282
283 Man: (Unintelligible).
284
285 Q1: ...you were responding to a - or someone was responding to a 964, what's a
286 964?
287
288 A: It's a collision with unknown injuries.
289
290 Q1: And a Code 34?
291
292 A: It's a motorist assist, so if someone's broken down on - on the road, or any
293 mechanical failure of the vehicle.
294
295 Q1: Okay. Um, and can you, uh, describe real quick, again, you said you looked
296 down during the fight and you saw, uh, a sort of malfunction of the gun.
297
298 Man: (Unintelligible).
299
300 Q1: Can you describe very exactly what you saw?
301
302 A: So I saw the, um...
303
304 Man: (Unintelligible).
305
306 A: So the gun was locked back. I saw the magazine or the the mag not fully all
307 the way in. It was, um, I could see the silver of the mag sticking on the
308 bottom. So when you rack it, you put it all the way in, but if you don't put it
309 all the way in, it's - it's still loose, you can pull it out. So I saw part of the
310 metal sticking out. And then I saw a bullet, um, where the - where it should
311 rest normally, but it was, uh, sticking up facing north and south, or facing up
312 and down instead of side-to-side how it should be. And so that, um, stopped
313 the - the handgun from going back to its, um, reset mode.
314
315 Q1: And you - you mean, like, a - an unfired round, like, with the casing and the

316 bullet still in there is what was jammed up and down, correct?

317

318 A: Right, it was a - just a - a bullet and the casing was still on intact together.

319

320 Q1: Okay. Uh, and then how did you get the gun away from the subject?

321

322 A: Well I..

323

324 ((Crosstalk))

325

326 Q1: Did he eventually let go, or did you force it from him, or how...

327

328 ((Crosstalk))

329

330 A: I - I forced it from - from him by, uh, punchin' his - his, uh, his right hand, uh,
331 uh, with the - the gun. So he was grabbin' it. He had the gun with his, uh, right
332 hand, and I grabbed his hand and at the same time was punchin' him multiple
333 times with my right hand towards hand, so hitting his fingers, uh, with the
334 purpose of havin' - of makin' him let go and eventually he did. And that's
335 when I removed the firearm a- away, and I grabbed my handcuffs and I
336 grabbed his right hand. That's when I, um, handcuffed him to the, um, to the
337 bed.

338

339 Q1: Okay. Um, and then as soon as that fight started and he's goin' for your gun
340 what were you feeling?

341

342 A: Uh, I was just feeling, uh, adrenaline just dumped on me, and, uh, I was goin'
343 through a lot of things in my mind. Obviously, uh, he was fightin' me and so I
344 knew I had to take care of the situation. And there was other people that were
345 in the hospital, doctors, nurses, the patients, so my - my, uh, priority was the
346 safety of everybody and controlling him, because he was bein' combative and
347 not cooperative from the get go.

348

349 Q: So when you say you had a lot of emotions, I guess, describe some of those.
350 What...

351

352 A: Uh, just, uh, shocked. I was, you know, scared, 'cause, uh, I wasn't expecting
353 that. You know, I - I see this guy, he's, you know, he's injured, he's brought
354 to the hospital, he's goin' off and on, um, you know, I can smell the wrench
355 smell - the type of smell that alcohol gives on - on people and their pores. And
356 so, uh, I thought he was calm and collected as I was tryin' to talk to him
357 down, and I was never rude to him. I never yelled at him. I never cursed him
358 out. I was tryin' to talk to him, like, a normal person, but he just kept on
359 raisin' his voice, so I wasn't expecting that reaction from him. So like I said I
360 was just feelin' a huge, uh, adrenaline rush. Uh, I was just focused on - on the

gun, because, uh, I was surprised when the shot ran - went off, or when the round went off, so, uh, at that point I was like, wow, did - did that just happen? I looked at - at my side because, uh, I want to see if my - if I was bleeding an- and I didn't feel any pain. I didn't, um, you know, get - I didn't react when the noise of the round went off, I just heard the - those noise and I'm like - and I stopped and he stopped and I looked, and I smelled the - the gunpowder, and after that that's - that's when, you know, everything just kind of caved in and I knew I had to - it was, uh, one of those moments where you're fighting for your life. If you don't - if you don't, uh, do anything, you're gonna basically become a victim. So I did what I had to do. I just - I continued, um, going through what I had to do, as far as, like, okay, I've got to remove the firearm or the weapon from the situation. I've got to control the situation. I've gotta, um, control the - the situation before something horrible happens.

Q: So as you were attempting to regain control from the suspect, while you were fighting with him, did you - did you notice that any of your actions were causing a reaction with him? Uh, were your actions affective, initially, with the suspect?

A: What do you mean?

Q: So the, uh, by you striking him or fighting over your gun, did you see - did you notice him, uh, loosen his grip on the gun, or begin to stop fighting with you, or...

A: No, he - he continued fighting with me. He - he had the intention of putting the - pointing the gun towards me, 'cause he - he was tryin' to move the gun towards me and I had - I was tryin' to push it away from me. And at the same time I just - I just started punchin' his hand to gain control, because he had his, um, his body towards me, so he had all - he has weight to go towards me, and he was tryin' to force the - the firearm to face me so he can shoot me. And, uh, I just, uh, put my - my f- - my weight and force on the - on his right hand with my left hand, that way the gun would not be turned towards me at the same time I started punchin' him. And that's when Trooper Marotto came in and, you know, he saw where the gun was pointed at, and that's when he - he went to the back and started puttin', uh, pressure points on him.

Q: So you believe the suspect was tryin' to shoot you?

A: Yes.

Q: Do you believe the suspect was tryin' to kill you?

A: Yes.

406
407 Q: And none of the actions you were taking towards the suspect were causing,
408 you know, were - were effective at that point?
409
410 A: Uh, they - they were not effective in - in the matter that he wasn't gonna go,
411 he wasn't letting off the pressure. He kept on resisting, continued resisting. He
412 was continuing to fight, uh, fight me so he can get control of the firearm. But
413 like I said I - I was tryin' to do my best, and obviously my - my effort was not
414 giving me any, uh, solution. So...
415
416 Q: And...
417
418 A: ...we were kind of, uh, at a stalemate, where I knew that I had to, you know,
419 change my missed strategic or something. That's when I started, you know,
420 punching his hand.
421
422 Q: And when the other Trooper came into the room did you say anything to him?
423
424 A: To Trooper, uh...
425
426 Q: Uh, it's Marotto?
427
428 Q1: Marotto.
429
430 A: Marotto.
431
432 Q: Marotto.
433
434 A: Uh, he said, uh, through the radio, "Shots fired." And then...
435
436 Man: (Unintelligible).
437
438 A: ...um, he was tellin' him, "To drop the gun, let go of the gun," and, uh, I - I
439 know - I don't know if I - I'm sorry, I'm tryin' to think back, it's kind of a
440 blur, but I think I told him, um, we're Code 4, 'cause r- - Dispatch said, "Are
441 you guys Code 4? Do you need Benson PD?" And I said, "We're - yeah,
442 we're Code 4," or I told him and then he - I guess he - he - I don't know if he
443 put it on the radio or not. Like I said I was just so tunnel vision on freein' the
444 gun from - or takin' the gun from him, but, uh, as far as givin' commands to -
445 to him, no.
446
447 Q: Uh, as far as who - giving commands to who? To Trooper Marotto or to the
448 suspect?
449
450 A: To the suspect.

451
452 Q: From - from...
453
454 A: 'Cause...
455
456 Q: ...Trooper Marotto...
457
458 A: ...Trooper Marotto was...
459
460 Q: ...to the suspect?
461
462 A: Trooper Marotto was giving commands to the suspect then, I - I wasn't. I was
463 - like I said I was tunnel vision, I was focused on trying to release the firearm
464 from him.
465
466 Q: And were Troopers - Trooper Marotto's commands to the suspect effective?
467
468 A: Uh, it's - yeah, to - to the extent where he - he was listening to him. You
469 know, he - he grabbed it - he had his attention.
470
471 Q: What were some of those statements made by Trooper Marotto?
472
473
474
475 A: To drop the gun, drop the gun that's what he was tellin' him.
476
477 Q: When he said that did the suspect drop the gun?
478
479 A: No.
480
481 Q: Okay.
482
483 A: He - he's still - he was still tryin' to fight me. And at that point at the same
484 time I was punchin' his hand. And so it wasn't until multiple strikes that he
485 finally let go or he released the firearm.
486
487 Q: Did he make any statements, uh, and I'm talkin' the suspect now, as far as
488 okay, I'm done, or I give up, or anything like that?
489
490 A: No, he - he didn't.
491
492 Q: Okay.
493
494 Q2: Uh, what kind of caliber and weapon system do you carry?
495

496 A: Uh, I carry a F&S 9-millimeter.
497
498 Q: Uh, and, sir, I'm sorry, at the beginning I didn't, uh, ask you to introduce
499 yourself for the record.
500
501 Q2: I'm sorry. Um, also present, uh, (Michael Pang) from (Yen, Pilch & Landeen),
502 attorney for Trooper Hernandez. I've been here since the beginning of the
503 interview as well.
504
505 Q: Do you have any other questions? All right, um, we're gonna go ahead and
506 conclude.
507
508 Q1: Did you guys have any other questions?
509
510 Q2: I don't.
511
512 Q1: Or did we not bring anything up that you want to talk about?
513
514 A: Uh, I mean I don't know where the round went, the one that was stickin' out.
515
516 Q1: All right.
517
518 A: So, uh, and, uh, but, yeah, I mean like I said I mean I just went out after
519 everybody came in, and that was it. I started just thinkin' about what
520 happened and tryin' to get an idea of, you know, what - what occurred, and
521 what - how it occurred, and what I could have done differently.
522
523 Q: And, uh, when you left there did you make any statements to anybody?
524
525 A: Uh...
526
527 Q: Regarding - regarding what had happened?
528
529 A: I mean I just went out to the lobby and I sat down, and I was just, you know,
530 just thinkin' about what - what - what I had just done, you know. What have I
531 - how did I let that happen? And I was just so - and I - I was just thinkin'
532 about, like, man, what - how could I, you know, first of all how could I be a -
533 a victim of that during the - the whole thing that we've been talkin' to the
534 preparation, as far as, you know, officer safety goes, but, no, I just sat down
535 and I just kind of started thinkin' about the whole situation.
536
537 Q: All right, do you have anything else to add?
538
539 A: No.
540

541 Q: Do you have any questions for us?

542

543 A: Um, I don't know, I mean what - what happens after this?

544

545 Q: Uh, well, typically, this is still ongoing. Um, it's gonna be - continue to be
546 investigated and when we go back to Phoenix it's gonna be typed up. It's
547 gonna take some time, uh, may take a little while, uh, before you hear
548 anything back. Um, anything specific you want to know about it, or...

549

550 A: Um, will I be able to come to work tomorrow, or...

551

552 Q: Uh...

553

554 A: ...the next day, or...

555

556 Q: Those things will be up to your chain of command.

557

558 A: Mm-hm.

559

560 Q: So we - we won't have any, uh, well very little control over those things.

561

562 A: Okay.

563

564 Q: Yeah. So we're gonna go ahead and go off record now at 1219.

565

566

567 The transcript has been reviewed with the audio recording submitted and it is an accurate
568 transcription.

569 Signed_____

INTERVIEW WITH OFC. BOBBIE WOOLLEY

Q=Det. Michael Valdez

Q1=Det. (Rick Ortiz)

A=Ofc. Bobbie Woolley

Q: All right, today's date is Sunday, June 10. The time is 1251. I'm Detective Michael Valdez, Badge Number 7625, with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: (Rick Ortiz), Badge Number 6760, also with Special Investigations Unit.

Q: This is in reference to AZDPS Report Number AZ1800238888, an officer-involved shooting, which occurred at the Benson Hospital located at 450 South Ocotillo Avenue. This secured - this occurred on June 10, 2018, at approximately 04 - 0408 hours to 0409 hours in Emergency Room 6. Um, we're interviewing...

A: Trooper Woolley, Bobbie.

Q: And...

A: Badge 6519.

Q: And for the record can you please say your name again and spell it?

A: Bobbie Wooley, W-O-O-L-L-E-Y. Do you want me to spell my first too?

Q: Yes, please.

A: B-O-B-B-I-E.

Q: And your badge number one more time?

A: 6519.

Q: Okay. Uh, and for the record were you present at the location when this occurred?

46

47 A: I came in after the weapon had been discharged, after I heard the radio call.

48

49 Q: Okay.

50

51 A: I was outside in the parking lot parking the car coming from a collision, and
52 they had asked me to come draw blood, 'cause I'm a phlebotomist.

53

54 Q: Okay. All right, and from the beginning can you just go ahead and tell me
55 what happened?

56

57 A: Um, me and Josh (Moriarti) - (Trooper Moriarti) we were working a collision
58 a Milepost 305, I think .4. Um, we heard on the radio, um, Sergeant
59 Summerfield being in a fight. We couldn't leave 'cause we had part - we had a
60 whole lane blocked and part of another lane blocked. And we had traffic
61 coming down on us, um, later on. We couldn't hear everything 'cause of the
62 radio, but, uh, Sergeant Summerfield came down and asked if he could take,
63 um, one of us to go get the car from Rapid Towing and bring it over - over to
64 the hospital. One of the guys I guess road in the hos- - I think Haymore- rode
65 over in the ambulance, I'm guessing, 'cause when we get a car that's what
66 would usually happen. Um, and so (Josh Marotto) went with them. Um, and
67 then we picked up the car went there. Um, later on I got a call from (Josh)
68 asking me if I can come down and do a b- blood draw, um, 'cause the guy was
69 DUI, and the staff was refusing to do a blood draw. I told him, "I'll be there,
70 uh, give me about ten minutes. I need to finish clearin' up the scene, get the
71 roadway open so I can get out of there." Um, drove up, uh, ca- - put myself
72 out at the hospital, backing my car in - or the car in. As I exited - or exiting
73 the car turning it off, I hear on the radio, um, I think it was 1091. I can't
74 remember if he said 1091 or 998. Um, you know, his call sign so I started
75 running towards the emergency room. Uh, Trooper Haymore was in front of
76 me. We went in, um, Trooper Haymore - I can't remember who was just
77 holding him - holding there, and then I helped put him back on the - once they
78 had him cuffed to the bed I put him back on and I stayed in the room until I
79 was - he was taken to Benson PD with him. He would moan and groan and
80 then I was watching. The doctor and the nurse were talking about doing a
81 medical catheter on him, if they needed to or not, and all his moaning and
82 groaning stopped. And he was really payin' attention to what they were
83 sayin', not his - whatever he was doing. And then as soon as they decided not
84 to he started moaning and groaning and moving around a little bit. But - and I
85 came in, um, when me and Hay- - we were puttin' him back on the bed, we
86 searched, uh, we searched - checked him to see if he was wounded, 'cause we
87 didn't know where the gunshot went at that point in time. Checked on him and
88 I found - underneath him we found as undischarged round and a cuff key. So I
89 took possession of those and I ended up setting 'em on the, uh, counter behind
90 me away from him and left him there.

91
92 Q: Did you ever identify who the - the cuff key belonged to?
93
94 A: I did not.
95
96 Q: Okay. Um, and were you ever able to get a blood sample from the suspect?
97
98 A: Um, later on, uh, Trooper Haymore and Sergeant Summerfield applied for a
99 search warrant, um, were able to obtain it. Um, I went over there with 'em.
100 Detective (Deskins) drove me over 'cause the car was still at - my rookie's car
101 was still at the hospital, 'cause Captain (Chase) had given me a ride here. Um,
102 went over, uh, Trooper (Drummond) was there, Sergeant, um, oh I blanked his
103 name, (Derlano) was there, um, (Wilcock) or (Wilcox), Benson PD Officer.
104 (Asher) was there. I can't remember (Asher)'s last name. Um, and we brought
105 him out, secured him in a, uh, restraint chair. And I visibly showed him the
106 warrant that I had, his copy. He goes, "I need it closer." So I got close enough
107 so he could read it, till he told me he was done reading it. Um, he gave me no
108 problems with blood draw, submitted to it. Um, actually, said, "Hey, do you
109 mind turning my arm a little bit more so you can get a little bit better shot on
110 the - on the vein." Um, at 0936 hours I was able to obtain his blood, two tubes
111 of it. I kept possession of it, I sealed it, I secured it. It's in the evidence room
112 behind us in the - or over there in the cold storage. Um, I filled out the
113 evidence form and I filled out the blood draw form. So I was - we were able to
114 get - he was able - he answered my questions when I asked him about having
115 allergies, medical problems, infectious diseases, the basic questions on a
116 blood draw form.
117
118 Q: Okay.
119
120 Man: (Unintelligible).
121
122 A: He said he was allergic to penicillin.
123
124 Q: And, uh, uh, once you observed the suspect, uh, restrained in his bed...
125
126 A: Mm-hm.
127
128 Q: ...um, is that at the point that the other Troopers that were involved exited the
129 room?
130
131 A: Mm-hm.
132
133 Q: Did you remain in the room with the suspect?
134
135 A: Yes, me and Trooper Haymore were most of the time.

136
137 Q: Okay.
138
139 A: I stayed in the whole time.
140
141 Q: Did the - did the suspect make any statements, uh, when the other troopers
142 left?
143
144 A: No, just moaning and groaning that I heard.
145
146 Q: Okay. Did you say, uh, anything to the suspect?
147
148 A: No.
149
150 Q: Okay. Um, after all that was done how was he removed from that room and
151 transported?
152
153 A: Well we told him we were gonna take him out to the car. Um, he went limp
154 and we carried him out to the car. Um...
155
156 Man: (Unintelligible).
157
158 A: ...got under each arm, had ahold of his belt and a leg till I could get through
159 the door with everybody, and Trooper Haymore had it, and I kept falling. And
160 then I - when we got to the car I went around the opposite side and pulled him
161 the rest of the way in, moved his head back and out of the way, so when I shut
162 the door it wouldn't slam on him. I actually lifted him up and put it in the, um,
163 the armhole of those molded seats so it'd hold it up when I shut the door, so
164 he wouldn't - it wouldn't whack him.
165
166 Q: And he was transported, uh, Benson PD?
167
168 A: Yeah, after that he was transported to Benson PD. I did not go.
169
170 Q: Okay. And was he transported by a Benson Police Officer, or by...
171
172 A: No.
173
174 Q: ...DPS?
175
176 A: By Trooper Haymore.
177
178 Q: Okay. Uh, Trooper Haymore transported him alone do you know?
179
180 A: Yeah, I asked if he wanted me to go with him. He had the Benson PD Officers

181 following him with - when they went.

182

183 Q: Okay. Um, at the, uh, conclusion of all that once he was put in the back of the
184 patrol car, what did you do from there?

185

186 A: Um, I was asked to scribe. I went back towards the rooms, they closed the
187 doors, didn't re-enter 'em. I was asked to scribe for Sergeant Summerfield. I
188 began scribing for him, writing down everybody that was there, getting
189 information. Went over to Healthcare Innovations, uh, got the information of
190 the transporting, um, paramedic and EMT, which I gave - when I was no
191 longer the scribe, to the next guy, um, which was mor- - (Marotto). I gave him
192 that form with that on it. I also found out that, uh, one of the, um, Healthcare
193 Innovations' employees was in the building next to the nurse's counter
194 towards the end of it when it all occurred. I wrote down her name, her
195 number, um, got her date of birth. And I can't remember what else I wrote
196 down. That she - she was there when it all happened.

197

198 Q: Okay.

199

200 A: It was a brie- - just brief notes so I could remember who she was. Um, she'd
201 given me a call already, so I had her phone number. And when the detectives
202 arrives they ask me to get her. I gave her a phone call and she was still on-
203 duty, and had her come back to the hospital and stay there while they
204 completed their interviews.

205

206 Q: And you're a field training instructor for Trooper Marotto?

207

208 A: Yes.

209

210 Q: How long have you been - or has he been in field training with you?

211

212 A: A day.

213

214 Q: A day?

215

216 A: That was our first day.

217

218 Q: Okay, is he in his first phase?

219

220 A: He's in his second phase.

221

222 Q: Second phase? Okay.

223

224 A: He had Trooper Haymore the first phase. I'm tryin to think. Um, I relieved
225 Trooper Marotto. Told Sergeant Haymore kinda what I knew, but it was all

226 hearsay, about he had actually tried to sh- - to shoot the person to...
227
228 Q: S...
229
230 A: ...end the fight. I - it's all hearsay.
231
232 Q: Are y- - are you talkin' about Trooper Haymore or Sergeant Summerfield?
233
234 A: I told Sergeant Summerfield what was going on, and that I should probably
235 relieve him 'cause he - Trooper Marotto was watching the doors.
236
237 Q: Okay.
238
239 A: “So I mean - can't have - make him be scribe, so he's with you out of the
240 building, and I'll sit and watch the doors...
241
242 Q: Okay.
243
244 A: ...to remove him from the scene.” Just not away from the scene, but out of that
245 area.
246
247 Q: Okay. Any questions?
248
249 Q1: Um, where exactly were you when you heard the initial call of the shooting, or
250 the shots fired, or whatever it was...
251
252 A: I was...
253
254 Q1: ...called?
255
256 A: ...shutting the car off and stepping out of it.
257
258 Q1: So you were in the hospital parking lot?
259
260 A: I was in the hospital parking lot when the call came across the radio. I finished
261 shutting the car, exiting the door. I didn't even shut my door, I ran straight for
262 the ER.
263
264 Q1: So you didn't hear anything?
265
266 A: I didn't hear anything.
267
268 Q1: Okay.
269
270 A: Um, the first thing I heard was the call that came across the radio.

271
272 Q: And when you entered the room he had already been taken back into custody?
273
274 A: Yes.
275
276 Q: Okay.
277
278 A: They were cuffing him back - I think they were cuffing him back to the post.
279 His cuff - handcuffs were in front. They had another cuff on his wrist holding
280 him to the bed.
281
282 Q: Okay.
283
284 A: Uh, the bed was cockeyed, pulled out away from the, uh, the bed. Um, and
285 later the nurses and he doctors slid it back so they'd have room to work in
286 there, while they're still checking his vitals and checking him and - prior to
287 releasing him.
288
289 Q: So you were on-duty at the time the initial call of the, uh, collision or Code 34
290 came out, uh, at another scene?
291
292 A: I was working another injury collision.
293
294 Q: Okay. And, uh, what is your regular schedule?
295
296 A: My regular schedule?
297
298 Q: Mm-hm.
299
300 A: Um, 12:00 to midnight. I cover (Wilcox). So from 322 all the way to the state
301 line, 1A and 191. Um, 186. We were dealing with a Code 34. Um, Trooper
302 Hernandez who was on a field training who had the first phase, um, was
303 coming back going - heading home from being with Trooper Haymore. And
304 observed a vehicle weaving quite badly, so I waited for him to pass us. We
305 left our Code 34 we were on, 'cause we had help coming for him. Um,
306 (Chase) said, "We can see the weaving - the same - the car weaving, not
307 staying in its lane." Um, we stopped it, 'cause he's on field training he can't
308 make that stop. Um, figured it out, you know, searching the vehicle because of
309 the story pattern wasn't right. It was weird. And then we had cleared that after
310 searching it and releasing that out. The lady she was fatigued, she'd been up
311 since 4:00 a.m. in the morning. Went to - from Mesa to Vegas and back to
312 (Wilcox), which didn't make any sense to me. And when I was askin' about
313 drugs she asked - she answered one differently than the rest, it just didn't
314 make any sense. And then, um, 'cause that's late to be comin' to Wilcox from
315 Mesa or Phoeni- - Vegas, sorry. So, um, we ended up kickin' her loose 'cause

316 we didn't find anything. And we went to the TA and fueled up, me and
317 Trooper Marotto, and that's when the call came out for the blocking 962 at 30
318 - it said 306 originally. So we were the only ones on, there was no one on over
319 here and we headed that way.

320
321 Q: And what days do you work?

322
323 A: Um, Wednesdays, Thursdays, Fridays and Saturdays.

324
325 Q: Okay. Any questions?

326
327 Q1: No.

328
329 Q: Do you have any questions of us?

330
331 A: No.

332
333 Q: Okay.

334
335 A: Sorry I couldn't be more help.

336
337 Q: Well we'll go ahead and, uh, conclude the interview at 1305.

338
339
340 The transcript has been reviewed with the audio recording submitted and it is an accurate
341 transcription.

342 Signed_____

INTERVIEW WITH OFC. BRENT HAYMORE

Q=Det. Michael Valdez

Q1=Det. (Rick Ortiz)

A=Ofc. Brent Haymore

Q: All right, today's date is Sunday, June 10. The time is 1309. I'm Detective Michael Valdez, Badge Number 7625, with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: (Rick Ortiz), Badge Number 6760, also with the Special Investigations Unit.

Q: This is in reference to an Arizona Department of Public Safety Report Number AZ1800238888, an officer-involved shooting, which occurred at the Benson Hospital located at 450 South Ocotillo Avenue. This occurred on June 10, 2018, at approximately 0408 hours to 0409 hours in Emergency Room 6. We are currently interviewing Trooper Brent Haymore, is that correct, sir?

A: Yes.

Q: And for the record can you please say and spell your name?

A: Brent -- B-R-E-N-T, Haymore -- H-A-Y-M-O-R-E.

Q: And your Badge Number?

A: 7670.

Q: And for the record were you present at this location when this occurred?

A: I was at the hospital, yes.

Q: Okay, all right. Just go ahead and, uh, you can start from the beginning, uh, of this entire incident, if you can tell me what happened.

A: Uh, somewhere around 2:30 I got a phone call from Dispatch for a car in the ditch at 297 on 10. Um, by the time I got on State Road 80 from my house, um, Sergeant Summerfield was asking for, um, assistance. And so by the time

I got there he already had him handcuffed and was on top of him and I assisted Sergeant Summerfield with putting him in the back of my patrol car. Uh, (Mescal) Fire arrived and EMS arrived to do an eval on the subject. We put him in the back of the ambulance. I rode in the ambulance to the Benson Hospital. They put him in the room in the hospital. I handcuffed him to the bed. And the doctor, nurses were in and out treatin' him. Once they, uh, did their initial assessment on him I, uh, read him Admin per se for, uh, Sergeant Summerfield for a DUI investigation. He refused the blood draw. Um, about that time Sergeant Summerfield, uh, Trooper Marotto and Trooper, uh, Hernandez were all there. I spoke with Troop- - uh, with Sergeant Summerfield. He, uh, I told him he refused blood draw, had to start workin' on a search warrant. Me and him went out to my patrol car 'cause Sergeant Summerfield did all the field sobriety tests, um, before I got there so I needed his help on, uh, what he saw for the search warrant. While I was at my patrol car in the parking lot of the hospital, um, I heard, uh, what I believe to be Trooper Marotto yelling for a 1091. I ran inside. On entering the room Trooper Marotto and Trooper Hernandez had, um, the subject on the bed and holding him down. And, uh, he was still chained to the bed and they were gettin' handcuffs on him. And, uh, the room smelt like gunpowder, a gun got sh- - got shot. And, uh, as I was - and Trooper, uh, Woolley came in behind me and we got the subject a little bit more on the bed, and, um, I was told a shot was fired, so the subject was acting incoherent. So we did a quick search to see if he was actually shot. Didn't see any blood or anything. Uh, found a - me and, uh, Trooper Woolley found a, uh, handcuff key and a - a live round in the bed. And, uh, after that point it's pretty calmed down. The guy was pretty incoherent after that. And once medical, uh, released him they asked that we remove the subject from the hospital. I transported him to the Benson Police Department, they put him in a cell. And after I was relieved by Trooper (Drummond) I came over here to the Benson 103.

Q: And when you were in the ambulance with the su- - uh, suspect did he make any statements to you?

A: Uh, he was upset. He was strapped to the, uh, to bed and handcuffed. Um, he mostly argued with the, uh, paramedic or EMT in the ambulance most of the way. The ambulance was tryin' to do their medical thing and he was quite uncooperative with them.

Q: So that was the content of the argument was between him and medical personnel for...

A: Yeah, they wanted to...

Q: ...medical treatment?

91 A: ...start an IV and stuff, and he kept sayin' how he's more qualified than them,
92 and kept talkin' about OSHA and how they're not doin' it right and things like
93 that. They were arguin' back and forth.
94

95 Q: Uh, did - when you were in the ambulance, um, with him, based on your
96 training and your experience, did you observe any signs of impairment, or...
97

98 A: Uh, it...
99

100 Q: ...or medical issues?
101

102 A: Um, the ambulance reeked of, uh, the smell of alcohol. He had bloodshot
103 butter, uh, red bloodshot watery eyes and...
104

105 Q: Okay, and not - so after the, uh, so back to the hospital after the, uh, shooting
106 occurred, um, can you take me back to that - that time, what your involvement
107 was from the time that you - just give me from the time that you located the
108 handcuff key and...
109

110 A: Uh, after, uh, we found the handcuff key we basically, uh, he was acting
111 pretty incoherent. The medical staff did some tests, found him to be just fine.
112 Uh, we stood around waitin', um, 920, was callin' you guys and - or waitin'
113 for medical to do their medical clearance so we could take him out. So
114 everybody's just standin' there waitin' and...
115

116 Q: And did you find anything other than the handcuff key?
117

118 A: There was the handcuff key and the live round on the bed, and the - before I
119 found that, um, uh, Hernandez's magazine was underneath the bed, but he
120 picked that up.
121

122 Q: Did you observe any, uh, spent shells or anything?
123

124 A: I didn't see a spent shell, no.
125

126 Q: Okay. All right, then, uh, did you - after you - when you transported the
127 suspect to Benson PD did you take - did you have any conversation with him
128 in the patrol car?
129

130 A: No, he was completely incoherent.
131

132 Q: And when you arrived same thing?
133

134 A: Same thing. When we put him - we carried him into the cell.
135

136 Q: Okay. Um, were you there for the blood draw and...
137
138 A: No.
139
140 Q: None of - none of that afterwards?
141
142 A: No.
143
144 Q: Uh, did you return to the hospital when you were done there, or did you
145 come...
146
147 A: No, I came straight here...
148
149 ((Crosstalk))
150
151 Q: You came straight here. Is this where you've been ever since?
152
153 A: Yep.
154
155 Q: Did you make any statements regarding what happened to anybody else?
156
157 A: Now out of this room?
158
159 Q: Any- anybody, either in or out of this room?
160
161 A: Uh, just Sarge and everyone involved.
162
163 Q: Okay. Uh, have you gotten the opportunity to speak to your family about what
164 happened tonight?
165
166 A: No, I just told the wife, "I'm stuck in the office doin' paperwork."
167
168 Q: Okay. All right, uh, do you have anything else you'd like to add?
169
170 A: Nope.
171
172 Q: Any questions for us?
173
174 A: Nope.
175
176 Q: Any questions?
177
178 Q1: Uh, I think I missed it real quick. Did you arrive before or after the initial fight
179 with the Sergeant?
180

181 A: I - when I got there, um, he was already on the ground and handcuffed, and,
182 uh, I helped Sarge put him in the back of my patrol car.
183
184 Q1: Okay, he wasn't fightin' no more after that?
185
186 A: Um, as we were carrying him he was tryin' to kick us. He kicked me in the leg
187 a couple times when I was puttin' him in the patrol car, that's about it.
188
189 Q1: Okay.
190
191 Q: Did he kick you while he was handcuffed?
192
193 A: Yeah.
194
195 Q: Um, and was the sergeant the only person on-scene with the suspect when he
196 had taken him in custody?
197
198 A: The tow truck was there. There was another guy standin' by the wrecked car,
199 which I believe was the passenger of the car. And then I saw someone down
200 by the gas pumps, I don't know who that was. I'm assumin' the clerk at the
201 gas station. He never came up to the scene, you know, just - I just saw him
202 down there by the gas pumps watchin' from the shadows. I don't know who
203 he was.
204
205 Q: And the passenger of which vehicle are you talkin' about?
206
207 A: The subject's vehicle. The wr- wrecked vehicle.
208
209 Q: Okay. So you believe there was somebody else with him in the vehicle at the
210 time that he was...
211
212 A: Uh, that's how I understood it, yeah.
213
214 Q: Okay. And do you know where that person is?
215
216 A: No.
217
218 Q: Um, any other law enforcement agencies on-scene with the Sergeant when he
219 took him into custody?
220
221 A: Uh, no, I got there first, as far as law enforcement goes. (Mescal) Fire showed
222 up, and then a Benson PD showed up, but that was after we had him in the
223 patrol car.
224
225 Q: Okay.

226

227 A: And then Benson PD they had other calls going, so he left. He showed up and
228 saw we were okay and then he left.

229

230 Q: Okay. Any questions? All right. Do you have any other questions for us?

231

232 A: No.

233

234 Q: All right, we're gonna go, uh, go ahead and conclude the interview at 1320.

235

236

237 The transcript has been reviewed with the audio recording submitted and it is an accurate
238 transcription.

239 Signed _____

INTERVIEW WITH SGT. BRIAN SUMMERFIELD

Q=Det. Michael Valdez

Q1=Det. Rick Ortiz

A=Sgt. Brian Summerfield

Q: All right, today's date is Sunday, June 10. The time is 1322. I'm Detective Michael Valdez, Badge Number 7625, with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: Uh, (Rick Ortiz), Badge Number 6760, also with the Special Investigations Unit.

Q: This is in reference to AZDPS Report Number AZ1800238888, an officer-involved shooting which occurred at the Benson Hospital, located at 450 South Ocotillo Avenue. This occurred on June 10, 2018, at approximately 0408 to 0409 hours in Emergency Room 6. Um, we're interviewing, uh...

A: S- Sergeant Brian Summerfield, 5709.

Q: Um, and for the record, sir, could you please, uh, say your name once more and spell it?

A: It's Brian Summerfield B-R-I-A-N, S-U-M-M-E-R-F-I-E-L-D.

Q: And your badge number one more time?

A: 5709.

Q: Uh, and for the record, were you present at the location when the, uh, shooting occurred?

A: Yes.

Q: Um, and from the beginning I understand this call was either a collision or Code 34, uh, that you responded to?

A: Yes. It was originally put out as a - as a collision, somebody that ran off the

46 road into a ditch.

47

48 Q: Okay. And, uh, from the time of call can we go ahead and start there, and you
49 can just tell me what...

50

51 A: Okay.

52

53 Q: ...happened.

54

55 A: Yeah, well I was headed to another, uh, collision, I was just about on-scene
56 when that one came out, so I was - I turned around and I headed to that one,
57 since the other Troopers were tied up with the other collision. When I arrived
58 on-scene it was actually the - at the 297 off ramp it - there's, uh, Meadow
59 Lark Way, which is just kinda like a frontage road almost. And as I was
60 exiting I'd seen the car over there and a tow truck was parked there in the
61 roadway by it. And I think he's - he's actually the one that had called it in. So
62 I circled around, got out and made contact with - there was a guy there, he
63 kinda come over, walkin' up to me, it was the driver of the vehicle. And he
64 kinda headed, you know, askin', you know, were you driving? Was this your
65 car? You know, asked him what happened. He goes, you know, he just started
66 all this - all of a sudden he just pulled left, you know. 'Cause he'd ran across
67 the road up over a big curb and into the brush, you know. And just - well, like,
68 the first contact I ever had with him I could smell alcohol, you know, so I
69 asked him a few more questions. And then I asked him, "Well, you know,
70 have you had anything to drink tonight?" And he said, "No." And I said,
71 "Well I can smell alcohol, so I know you had something tonight." He goes,
72 "Oh I had a drink quite a bit earlier." So I, you know, asked him a little bit
73 more, and then I went ahead and asked him if I could do, um, some field
74 sobriety tests. You know, take a look at his eyes to see if I thought he might
75 be impaired, you know, and he said, "Yeah, that's fine." He goes, "Those tests
76 aren't any good anyway." So I went ahead and did HGN and I had six clues.
77 Asked him if he'd do some more field sobriety tests, he goes, "Yeah, but I've
78 got a bad knee." I said, "That's all right, you know, we'll just see if you can
79 do 'em - do - go ahead and do it." Um, did the walk and turn. On the way back
80 through that - from that he kinda like grabbed his knees, like, "Oh my knee
81 hurts, you know." I said, "Well, okay, go ahead and stop the test there, you
82 know." And at that point I'd seen plenty to show me that he was, you know,
83 he was impaired. 'Cause he had about, like, seven out of eight clues on the
84 walk and turn. So at that point I went ahead and took, you know, kinda
85 reached back and unsnapped my handcuffs. Got my handcuffs, told him, "Sir,
86 you're under arrest for DUI." Which, uh, he was facin' me at that time. I
87 kinda grabbed his - would be his left hand with - you know, left wrist with my
88 right wrist, you know. And I went to try to kinda put 'em on the wrist. Like I
89 said at this time I didn't think he was gonna do anything. And when I did that
90 he kinda started struggling, you know. So I tried to take control of his arm, I

91 dropped my flashlight and stuff, take control of his arm. And at that time he -
92 he continues struggling and he kinda came towards me and kinda, you know,
93 came towards me. When he did that I quick - just grabbed him and threw him
94 down to the ground. Um, he went down on his back. He's tryin' to struggle to
95 get away, you know, and tryin' to grab me and stuff, and I'm tryin' to control
96 his - his wrist and his arms and stuff. I was kinda off to the side of him, you
97 know, and we were strugglin' back and forth. And I don't remember exactly
98 how long that struggle went on there. And the next thing I knew the - the tow
99 truck driver came over and grabbed his - would be that guy's - his right hand -
100 or right arm, 'cause I was on his left side. So he grabbed him there and I had
101 the other one, and I, you know, I kind of kept yellin' at him, "Quit resisting,"
102 you know, and stuff. And he's yelling stuff, "Oh, you're violating my rights,"
103 and, you know, I don't remember exactly what all he was saying at this point.
104 But - so he k- kind of struggled and he kinda stopped for a little bit and I ease
105 - I ease up. I - that guy was kinda on top of him and holding him there, and I
106 said, "You know, you need to quit resisting. You're under arrest, you need to
107 give me your arm." And so at some point my cuffs had kinda got knocked
108 away there during the struggle, and the - the tow truck driver picked 'em up,
109 you know. So he was tryin' to put them on the one arm - on one hand, you
110 know, he goes, "Do you want me to put this cuff on?" I said, "Yeah, go ahead
111 and put it on that one," you know, and he guy started strugglin' some more
112 and didn't want it on there. I told him, "Quit struggling or I'm gonna tase
113 you." You know, he goes, "Oh I don't care, it doesn't hurt me anyway." You
114 know, so we struggled a little bit more and he kept on, so I went ahead and at
115 that point got my taser out, and just kinda put it by his chest there and kinda -
116 and - and - and took one shot there. Didn't really do anything, he just kinda
117 started strugglin' some more and knocked the taser out of my hand. So I was
118 just tryin' to get control of, you know, his arms again. Uh, the next thing I
119 knew he was kinda, like, he's tuggin' on my holster. You know, I realized he
120 was actually reachin' for my gun, and so I got ahold of his arm and twisted it
121 back down, you know. Kinda struggled a little bit more. He tried it again. I
122 held him down, you know, the whole time tellin' him, you know, "Quit
123 resisting, you know, you're under arrest." Um, decided to try my taser. I got -
124 got a hold of it to do it again, so I kinda went behind him and shot him in the
125 leg at this time. That time I think it had some effect, but he just started
126 struggling harder. At that time he - he struggled enough to where his body
127 turned and I - I got ahold of him, I got him rolled over, uh, uh, rolled over
128 onto his stomach, you know, and I had better control. Then I got one arm and
129 the tow truck driver's still helpin' me and he got the other arm, and we've
130 kinda got his arms behind him, and finally got the cuffs on both hands - both
131 wrists, you know, got him cuffed up there. At that time the tow truck driver
132 got up, you know, and kinda stood, you know, stood back, and I said, "I've
133 got him now." And he was - we were laying in the middle of the roadway and
134 I know there's a car that had been stopped there kinda just waiting. So it -
135 'cause it's just a small, like, frontage road there. There's a little gas station

136 there. So I went ahead and just kinda grabbed him by the one arm and kinda
137 drug him off to - out of the road onto the shoulder there. And then I just kinda
138 kneeled down there with my knee, you know, on his shoulder there and waited
139 'til another officer showed up. At that time, you know, he was still - he was
140 kinda not sayin' a whole lot then, just layin' there kinda mad. Then me and
141 Trooper Haymore showed up. And when he - so - so we went ahead and stood
142 him up, started to walk him towards the car, and he's yellin' about violating
143 his rights, and, you know, I don't know what else, but - "Those tests aren't
144 any good," and started to struggle again. Started kickin' at me, start- - started
145 kickin' at me, you know, and stuff, so we went ahead and we, you know,
146 ended up takin' him back down to the ground. Talked to him for a minute
147 there, stood him back up and said, "Let's just get him in your car, you know,
148 so he's secured in there." Got almost to Trooper Haymore's car, which is
149 parked right behind mine. He started strugglin' again, he started kickin' at me
150 again, as best I remember. And, you know, he kinda fell towards me, and
151 when he did I think Trooper Haymore tripped on somethin', but we went
152 down to the ground again. He kinda landed on top of him. You know, he
153 kinda struggled some there. We got him back up. And then at that point we
154 went and opened the driver's side of his car, kinda put him in there, and I
155 stepped back and - and Trooper Haymore shoved him back in there some, you
156 know, shoved him into his car. And he was kinda strugglin' so I went around
157 the other side and opened the door to - to pull him in the rest of the way.
158 When I got around there he al- - was already in there, and he kinda was on the
159 floor, layin' on the floor. So I went to pick him up there, you know, and - well
160 first I opened the door and I'd seen he was all the way in, so I went to close it,
161 but his head was out the door then, so I o- opened it back up, sat him back up
162 and pushed him on the seat. You know, and he was tryin' to struggle to get out
163 of there, so I closed it and we got him secured in the car there. At that point
164 he's, you know, we - I think Trooper Haymore opened the door to talk to him
165 just for a second. He's like, "No, I need the ambulance," you know, and - and
166 he'd told me that when he was on the ground af- - when I had my knee on him
167 after we got him - the cuffs on, "Oh I need the ambulance." So I called for the
168 ambulance at that point. We had him in the backseat of Haymore's car and the
169 ambulance got there. When we opened the door he'd just lay there like he was
170 asleep, you know, so the ambulance kinda looked at him re- - and some, and
171 went ahead and said, "Yeah, we'll go ahead and transport him," so, "but we
172 need somebody to go with us." So, um, got him out of the car, got him on the
173 gurney. He just acted like he was out of it the whole time. We went ahead and
174 cuffed one hand I think to - to the gurney. They loaded him and Trooper
175 Haymore went with him. I kinda made, you know, ju- juggled some cars
176 around right there, 'cause he was leaving his - Trooper Haymore was leavin'
177 his car. Um, he went to the hospital and, um, Trooper Hernandez had showed
178 up, who - I think he was returning from a wide load or somethin', but he
179 showed up on-scene and he followed the ambulance to the hospital. After I got
180 the one car secured and the - the tow truck was there and loaded the car, I

181 went ahead and followed - I - I - the - the tow truck was already loadin' the
182 car and went ahead and I caught up to those guys as they're goin' to the
183 hospital. The, um, I know the ambulance pulled around back by the
184 emergency room and backed in. And Hernandez pulled in there and then I - I -
185 I pulled in there, but then I backed out, and I think I went back around to the
186 front of the - where did I go? He must have just backed up and pulled back
187 around him at the other side of the parking lot and went in the front door. And
188 I think I may have even have been doin' somethin' on the - 'cause I know
189 there's a slight delay before I went inside. Let me think. What did I do? Oh I
190 know what, okay, those guys took him inside the hospital there. I left there
191 and when I came back out to check on the other wreck, 'cause we had - there
192 was - the road - the high - the freeway was closed and stuff, so I went to see
193 where those guys were at with that. I said, "Go ahead and, you know, sit with
194 him while they check him out and I'll run over there and check on the - the
195 collision." So I went over there and talked to those guys. He says, "Yeah,
196 we're about done," and, you know, he - they were just sweeping debris off the
197 road. I said, "All right, I'm gonna head back over to the hospital." Went back
198 over there, you know, parked, went inside. Um, we were talkin' for a minute, I
199 ta- was talkin' to Trooper Haymore, and he - he said, "Yeah, let's go do a
200 search warrant for the blood, you know, he's not even gonna give us consent,
201 we're goin' straight with the search warrant." So me and Trooper Haymore
202 walked outside to - so he could dock his computer in his car and have power
203 on it, you know. So he went out there and was started to type up a search
204 warrant. And that's when o- over the radio all of a sudden we heard a, you
205 know, somethin' about, you know, "Can anyone, you know, shots fired," or
206 somethin'. We all went running in there and I think - I know Trooper
207 Haymore's ahead of me and I'm not sure who else, but kinda ran in, and I
208 could - when I ran in I could smell, you know, you could smell the - like, the
209 burnt, um, gunpowder, somethin'. Kinda went in the room there and the guy
210 was just lay - but at that point they were kinda just holding him, he wasn't
211 struggling or anything. He was laying on the - the, um, the bed there, and
212 kinda, like, he was out of it again, you know. And I was like, "God, man," so I
213 look and I didn't see any blood. I just wasn't sure where the shot had went,
214 you know, and I said, "Oh, no, nobody got shot. He tried to get my gun out,
215 you know, and it sh- - it went off," and it, you know, you could see where it
216 hit - they'd already seen where it hit the one wall. So I looked at that. You
217 know, I said, "Well just, you know, you know, hold him there, but just let me
218 go call the Captain," you know. So I go, "I'd better go call the Captain." I
219 said, "You know, just, you know, leave that stuff right there, don't do
220 anything with it and I'm gonna go outside." I went and called, you know,
221 Captain (Chase) to kinda let him know what happened, that a round had been
222 discharged inside the hospital. Um, you know, called him and he started
223 makin' notifications. Um, came back in and they're - the guy was still in - in
224 the - the one - the room there, and the j- - the - the doctor's like, "He's good to
225 go. We checked his vitals three times." And he was still playin', like, he was

226 out - he was just out of it, like, he was sleepin', or, you know, his kinda head
227 was - well at first I thought maybe he got shot 'cause of the way he had his
228 head. His head was kinda tilted back and he's just like goin', "Ah," and mur- -
229 moanin' and stuff, but the doctor's like, "He's fine, his vitals are all good.
230 You guys can take him." So at that point we went ahead and, um, loaded him
231 up and took him outside. Haymore pulled around front and those guys loaded
232 him in - in Haymore's car, while I was makin' some more phone calls and
233 stuff. You know, and they transported him to the hospital. At that point I went
234 back in and made sure the doors are clo- - you know, that the - that that room
235 and all that was secured. Um, then I kinda came back out, I started makin'
236 more phone calls and, you know, went back in, you know, put some crime
237 scene tape on the doors. Started to, you know, started to log and, you know,
238 incident log for incident Command, and that was kinda, you know, it was
239 kinda - kept goin' back down there, Captain (Chase) showed up and, you
240 know, then I came over here not long after that.

241
242 Q: Um, initially, when you made contact with him and he began to resist did any
243 of your commands of stop resisting, or quit resisting have any effect on him?
244

245 A: No, not at all.
246

247 Q: Um, and I believe you said that you had deployed your taser, initially.
248

249 A: Uh-huh.
250

251 Q: And then you felt him tug at your holster, or your gun, or s...
252

253 A: Yeah, and I can't remember if he was goin' for my gun before then, 'cause I
254 know he - I know I felt him - the first time I didn't realize, you know, I felt
255 kind of a tug and I realized he had it, you know, he had my holster, so I
256 grabbed his hand and pushed it off, you know. And then I know through the
257 struggles there he did it a couple more times. I know in between some of those
258 struggles is when I said, "You know, stop resisting, or, you know, I'm gonna
259 tase you, you know." And he's like, "Ah, go ahead it doesn't affect me." You
260 know, and he's - so he's - I know he struggled a little more and then I decided
261 to go ahead and try to tase him, you know. I tased him the once and it didn't
262 really do anything, so I, you know, I know I tased him and I tried to, you
263 know, move it to drive stun to try to get a better affect and it didn't do
264 anything. And then I did get a reaction when it was on his leg, you know, and
265 that's when he fought me - we got him - he actually tried to roll, so I let him
266 roll over and got, you know, once I f- - got him on his stomach then we had
267 better control of him, we got his arms up behind his back. But I don't, you
268 know, in there I don't know - I think that he had actually tried to grab it once
269 or twice before I tased him, you know. And then he tried to - I think he tried at
270 least once after that. Like, I don't remember how many times. I know it was at

271 least three that he had kinda felt and reached up and grabbed on the, you
272 know, tried to grab for it, but I just gri- - grabbed the hand and hold it back
273 down.
274
275 Q: Do you believe he was tryin' to get the gun out of the holster?
276
277 A: Yeah. Yeah, definitely. So - 'cause the first time the way he was doin' it, and
278 after that the way he was grabbin' it I think he was tryin' to get it.
279
280 Q: And during the struggle with him did he make any statements towards you?
281
282 A: Not that I recall, no.
283
284 Q: Okay. Um, and so on your way to either Trooper Haymore's patrol car or the
285 ambulance he began kicking again, uh, and you took him back down. Did he -
286 was he - did you feel, uh, him kick you, or...
287
288 A: Yeah. Yeah, 'cause we were kinda goin' and - and he was - I don't remember
289 what he said, but, you know, he was really irritated and kinda arguin'. And I
290 just re- - I don't know what he said, but I know he started struggling and then
291 he started kicking me, you know, kinda sideways at me the first time, you
292 know. So that's when, you know, he started just kickin' and we just - we just
293 took him down. And the second time it's almost the same type of thing, you
294 know, we were goin', like, that and all of a sudden he got mad and he started
295 kickin' again at me, you know. It's kinda, like, he was tryin' to kick to the
296 side to kick me in the leg or somethin', so...
297
298 Q: Okay, uh, i- - was he the only occupant in the vehicle?
299
300 A: No, there was a second person in the vehicle, a passenger was in there
301
302 Q: Okay, where is that person now?
303
304 A: Um, he - he wa- - he wa- - at the end of the scene that he walked from me I
305 did get his name and stuff, so I have that, but he just - he walked home around
306 the corner. He goes, "I'm just gonna walk around the corner home."
307
308 Q: You did get this person's name...
309
310 A: Yeah, I got his...
311
312 Q: ...you said?
313
314 A: ...name, yeah.
315

316 Q: Okay.

317

318 A: Sorry, I've got it - it's in the cad log and stuff like that. It was (Harold), um, I
319 can't remember the last name offhand, but it's in - it's in the cad log, but I did
320 get his name.

321

322 Q: Okay, uh, and, uh, are you - were you injured at all?

323

324 A: Oh I just got some scrapes, you know, my knees and my elbows and my
325 hands.

326

327 Q: Is that injury on your hand is from, uh, fighting with the suspect?

328

329 A: Yeah.

330

331 Q: Okay.

332

333 A: Yeah, from hit- hittin' the pavement, you know, when we were str- struggling
334 on the ground.

335

336 Q: Okay. And, uh, prior to this - this whole, uh, the initial call, were you already
337 on-duty?

338

339 A: Well I had got called out for the initial collision. They called me one - and
340 said that we had - they just had a 62 blocking and, you know, and I thought
341 they were just advising me. And then they called me back about 20, 30
342 minutes later and said that, you know, it was a, uh, involving a semi and, you
343 know, the road was closed, and there's a hit and run, and, you know, possibly
344 four or five vehicles. I said, "God, I'd better go," you know, so I told them at
345 that point I'd be en route. So I was actually in route to that. You know, I came
346 from my ho- - my home and I was en route to that collision to help - to see
347 what was goin' on and to help. And then like I say right as I arrive - was arri-
348 arriving on-scene is when that other collision kicked out. So I told those guys,
349 "Oh just stay here I'll go take that." As soon as I left to go there I went - that's
350 when I advised them to go ahead and call out Trooper Haymore, 'cause I
351 knew he had just went home, like, at midnight. I knew - I knew he was on
352 until at least midnight. So I called, said "Well call him out, you know, to come
353 assist," be- - either between that, or with this wreck, or whatever. So I had -
354 and that's when I headed to that one over there.

355

356 Q: Okay. Um, what are your hours typically that you work?

357

358 A: Um, I usually y- - work, like, Monday through Thursday, or, you know, I
359 usually - I usually don't work the weekends very much. I work Monday
360 through Thursday, or Friday, it - just depending how the week goes. And I

361 will usually work, like, from 6:00 to - to, um, 16.

362

363 Q: Okay.

364

365 A: 4/10s.

366

367 Q: All right, um, so when you're goin' back to the hospital, after you heard on
368 the radio there's a 1091 or...

369

370 A: Uh-huh.

371

372 Q: ...something.

373

374 A: Yeah, we, uh, like I said just - I was outside in the parking lot, yeah, just -
375 when that happened.

376

377 Q: So you and Trooper Haymore responded into the hospital...

378

379 A: Right.

380

381 Q: ...around the same time, or together, or...

382

383 A: Yeah.

384

385 Q: Okay.

386

387 A: Yeah, he was just slightly in front of me when we were goin' in there.

388

389 Q: And when you entered the room you said you smelt, uh, burnt gunpowder or
390 somethin'?

391

392 A: Yeah, kinda right as I - we got in the door of the hospital, you know, 'cause
393 there's the - the sliding door and then there's the next door they've got to let
394 you into, and that was kinda open. So it's - but as we ran into those doors it - I
395 could - it's, like, man, that - yeah - 'cause I didn't exactly hear what on the
396 radio as a 1091. I thought I heard, "Shots fired." You know, and I got in there,
397 it's like, oh, man, it's - somethin' was fired, 'cause I could just, you know,
398 smell the gunpowder...

399

400 Q: And you...

401

402 ((Crosstalk))

403

404 Q: ...didn't - you didn't hear a gunshot from outside in the parking lot?

405

406 A: No, I didn't.

407

408 Q: And when you entered the room did, uh, the suspect had already been taken
409 control of again?

410

411 A: Yeah.

412

413 Q: He was in - in handcuffs, both his hands were secured at that point?

414

415 A: As far as I know, um, I think they were. I think one was still cuffed to the - the
416 bed there. And - but there's another set of cuffs holding that had both hands
417 together.

418

419 Q: Okay.

420

421 A: If I remember right.

422

423 Q: Um, and did you give any direction or make any statements to the Troopers
424 that were in the room there?

425

426 A: No, I just asked them real quick, "Are you guys all right? Did anybody get
427 shot?" And they said, "No, we - we don't think so. It just went through the
428 wall and it hit over there," and, you know, I said, "Nobody got shot though?"
429 And they said, "No." So then I just, um, let's see...

430

431 Man: (Unintelligible).

432

433 A: I'm thinkin' I just made sure that nobody got shot. And then, you know, he
434 was kinda just - the subject was just layin' there now, and I said, "Okay, well
435 just, you know, just stay here with him, make sure nothin' happens. Let me
436 make a few phone calls real quick." You know, so that's when I went out and
437 called Captain (Chase).

438

439 Q: And who did you - who did you tell that to? Who did you tell to stay in the
440 room?

441

442 A: Well I think, g- - um, Trooper Hernandez was in there, um, Trooper Marotto
443 and - and Trooper Haymore were there. And I don't remember if Trooper
444 (Woolley) was in the room at the time, 'cause he was kinda - he'd just gotten
445 to the hospital and kinda, you know, as the, you know, the call went out, so -
446 and everybody went runnin' in from outside.

447

448 Q: Okay. Um, did the suspect make any statements when you came into the
449 room?

450

451 A: No, he was lay- - he was layin' on the bed, like, he was out of it.

452
453 Q: Okay.

454
455 A: That's why I didn't know for sure. I asked, "Did anybody get shot?" 'Cause I
456 thought the way he was actin' I thought maybe he had got shot the way he,
457 you know, the way his moanin' and kinda actin' there I thought maybe he had
458 been shot or somethin'. So, like, you know, like, nobody got shot, and then,
459 no, okay, so he's - no, he's just, you know, he just started actin' like that, so...

460
461 Q: Okay. After you, uh, set up the crime scene tape and made the notifications
462 and stuff.

463
464 A: Uh-huh.

465
466 Q: ...what did you do after that?

467
468 A: Um, Captain (Chase) had showed up about that time, so I talked to him some
469 about it, you know. And we went out and, you know, we were goin' over just
470 some incident Command stuff. And then at that point, um, Captain (Buller)
471 showed up, and then, you know, they said, "Well go ahead and head back to
472 the office with the, uh, you know, the other guys that were involved. You
473 know, make sure nobody talks to anybody about the incident." You know, um,
474 at one point I went to Captain (Chase) I was talkin' to him. That's - he asked,
475 um, about calling out Trooper (Tapia), and I said, "Yeah, call him out, you
476 know, it'd be good to at least have them come stay with, um, Trooper
477 Hernandez." You know, 'cause he'd kinda seen him, so he'd seen upset from
478 it. So it's like, "Yeah, just go stay with him." You know, and I called the
479 Chaplain too to, you know, the Captain goes, "Well I'll call and talk to him."
480 You know, and so I, you know, made sure that m-, um, Trooper (Tapia) went
481 and stayed with Hernandez, you know. And then I talked to, um...

482
483 Man: (Unintelligible).

484
485 A: I think I talked to Trooper Haymore after that, and that's when he had - he had
486 - he advised me - and I didn't realize at first, I - I overheard a statement about
487 my gun bein' out of battery in - when I was inside there. And then Trooper
488 Haymore said, "Oh, no, um, um, Trooper Marotto - actually he - when he - see
489 he w- - he actually had his gun out, and try, you know, he was gonna shoot the
490 guy but he was out of battery." So I said, "Oh I didn't catch that part of it, you
491 know, at that time." You know, so then I went and talked to him, "Hey, are
492 you okay? What happened?" You know, and he kinda told me that, yeah, he -
493 that he came in and seen the gun out, so he kinda stuck, you know, was gonna
494 shoot him, because he - he still had ahold of the gun at the time. And - but it
495 went out of battery, and I, you know, the tap rack and then, uh, you know, I

496 didn't, you know, um, Hernandez was tellin' me, "Go ahead and holster it,
497 you know, I've got him, you know, I've got him, you know, under control."
498 So, you know, that's when I, you know, I talked to him and said, "Hey, are
499 you okay?" You know, I didn't realize that had happened originally. So, you
500 know, I said, "Well you need to kinda come on out." I had him kinda start the
501 log just because of manpower we had there at the time, so he started takin' the
502 log down for me. When I went outside and I was doin' somethin' with
503 (Woolley), I said, "Just, you know, go ahead and stay with the, you know,
504 security, don't let any - you know, just kinda secure the rooms for now." The -
505 the, you know, hospital said, "Yeah, we don't need those right now." I said,
506 "Secure those and wait here until I can get somebody to relieve you, you
507 know, relieve you." And then when Trooper (Woolley) was done doin'
508 somethin' outside then he went in. I said, "Why don't you go ahead and
509 relieve them." And that's after I realized that he was, you know, he had also
510 tried to shoot the guy, but I said, "Go relieve him, I need to get him out of
511 there." So that's when I went out there and he came out, and I think he went
512 over to Trooper (Tapia) too - I said, "Just - you guys go stay over there." You
513 know, and so they stayed with Trooper (Tapia) and got them out of there. You
514 know, then as people started showin' up then that's when they sent us all over
515 here.

516
517 Q: Okay.

518
519 Man: (Unintelligible).

520
521 Q: All right, do you have any questions for him?

522
523 Q1: What do you think he was tryin' to do when he was reachin' for your gun?

524
525 A: You know, I'm not sure. I just, you know, uh, 'cause the struggle was goin' on
526 there and, you know, and he - I just realized that, oh, man, he's tryin' to get
527 my gun, you know. I - I - because of the way he was acting, uh, you know, I
528 think if he had a gun he probably would have tried to shoot, you know, shoot
529 me or somethin'. You know, I didn't think, I just - 'cause I was able to get his
530 hand off in the angle he was reachin' at, you know, it's just that he - the
531 moment it's like, oh, just get his hand off and then hold him down, you know.
532 And it's like, dang, 'cause the first time it's like, dang, he's actually tryin' to
533 get my gun, you know. It - you just didn't think about it at first until I felt the
534 tug on it, and then he did it a couple other times and he's struggling. And he
535 was mad and like I say, I don't remember what - what was bein' said at the
536 time. I kept tellin' him to quit resisting and stuff, and he just, you know, he
537 was sayin' stuff about violating his rights. And there was a lot, you know, a
538 commotion, and I don't remember everything that was said that he was sayin'.
539 You know, I just remember, you know, strugglin' with him tryin' to get, you
540 know, control of his arms and try to get some cuffs on him.

541
542 Q1: Um, do you - I see you've got maybe - maybe some blood stains on your
543 pants. Do you know if that's your blood or the suspect's blood?
544
545 A: I'm not sure.
546
547 Q1: Okay.
548
549 A: 'Cause I know - I know I was bleedin' from my hand a little bit here. And
550 then on - in my elbow also, but I got some here, and I think I have some on
551 my shirt maybe, but I'm not sure whose it is. I know he had a - I think - think
552 he had some scuffed up arms originally. I know he ended up with a scuff on
553 his head, I think from one of the times when he was kicking me, he got taken
554 down, you know, but I know he had some on his - probably on his arms,
555 'cause we were wrestling on the ground right there in the - in the asphalt and it
556 was pretty rough.
557
558 Q: And have you ever dealt with this suspect before?
559
560 A: No, first time I've ever seen him.
561
562 Q: Okay. Um, and then just for the record can you point out what injuries you
563 have one more time?
564
565 A: I just - I've got the - the, um, scrapes on my hand here, on the palm of my
566 right hand. My left elbow's scraped up. And then I've got some scrapes on my
567 left knuckles. And I know my left knee's got, you know, scrape marks on it. I
568 don't know if this one does or not. Yeah, a little bit on my right knee but not
569 much. Yeah, and then the - just sore muscles other than that.
570
571 Q: Okay. Um, you know, before - before we relieve you we'll, uh, take pictures
572 of those injuries too.
573
574 A: Okay.
575
576 Q: Uh, your taser's the standard two-cartridge...
577
578 A: Yes.
579
580 Q: ...taser?
581
582 A: Uh-huh.
583
584 Q: Uh, did you fire both cartridges, or was it all...
585

586 A: Yeah.

587

588 Q: ...drive stunning, or...

589

590 A: Uh, I fired both of them. The first one I fired was, like, in the chest area. And
591 so I fired him there, and didn't get any response at all, so I tried to drive stun,
592 you know, while it was still goin' off. And didn't really get much of a
593 response. Kind of ended up throwin' it down beside me while I was - he was
594 strugglin' again, you know, to get his hand and stuff. Then he kinda
595 continued, and I had him at a point, where I thought, you know, I had a hold,
596 so that's when I - I picked it back up and I - I just put it behind me, where I
597 know his leg - I - I felt it go on his leg and I shot the second one ta- - um,
598 cartridge there. That one he kinda s- - you know, uh, it felt, like, either where
599 the probe's goin' in, or, you know, the - it actually had a little bit of effect, but
600 he just started fighting harder...

601

602 Q: And do you...

603

604 A: ...you know.

605

606 Q: Do you know how many times you, uh, you either fired your taser, or drive
607 stunned him?

608

609 A: I know - I think I f- - the best I can remember I fired it - when I fired it in his
610 chest I fired it then, and then actually I think I actu- - pulled the trigger one
611 more time tryin' to drive stun him with it. And then after I shot him on the leg,
612 I think just the one time and while it was still goin' off the - on the initial, I
613 tried to bring it forward and put it on his chest to, you know, get a better, you
614 know, control on him and it didn't really do a whole lot. At that point he got
615 to strugglin' harder and tryin' to turn over, and that's when, you know, I
616 thought, wow, if I can just get, you know, let him turn and get him over on his
617 stomach then I'll have a lot, you know, he'll - he can't fight as good, so...

618

619 Q: Did...

620

621 A: ...I got him rolled over there.

622

623 Q: So both cartridges and - and you said both - or two drive stuns also?

624

625 A: Yeah.

626

627 Q: Okay, so about - so you deployed probably four times for...

628

629 A: I think - and I know whether I fired it and then while it was still goin' off the
630 initial five seconds, that's when they brought it over and tried to put it on his

631 chest. You know, so I know I pulled the trigger at least three times on it, you
632 know, the initial - the firing of each cartridge and at least one time after the
633 first, um, cartridge deployment, I tried to drive stun him. I see the - no, I must
634 not have. 'Cause I know it popped when I shot back here, and I thought I
635 pulled it this - a second time on chest, and it would have shot a second time
636 there. So I - I had to just do it the two times.

637
638 Q: Okay.

639
640 Q1: Did anybody remove probes from him?

641
642 A: Um, I know when we first started - I said when we first tried to - to roll him
643 up, I - I remember Trooper Haymore pullin' somethin' out of the - the chest
644 area. I don't remember anything on the leg there. I tried to - as we kinda sat
645 him up there I tried to - to grab the strings and kinda get some of that out of
646 the way and just get those pulled loose, where they're not all tangled around
647 everything, you know. And then I think later I went and picked up the - the m-
648 - after we got him in the car I went and picked up that mess and just threw it
649 in my car. It's still layin' in my car somewhere.

650
651 Q: So you still have it in your car?

652
653 A: Yeah, they're in my car, I believe on the floorboard in the front.

654
655 Q: Okay.

656
657 Q: Um, do you have any questions for us?

658
659 A: Um, no, just, uh, uh, I guess more on the investigation part of it, what did you
660 want us to do, or as far as, like, the DUI? You know, whatever, you know,
661 'cause we pulled a DR for, you know, for the - there is - we pulled a DR for -
662 for the DUI and stuff.

663
664 Q: Right.

665
666 A: But I didn't know from - is - what we need to do from there, as far as reports,
667 or...

668
669 Q: Um, i- i- it's my understanding that the, uh, guys from Investigations are
670 gonna help you with the DUI...

671
672 A: Okay.

673
674 Q: ...portion of it. Um, so I would communicate with them what they...

675

676 A: Okay.

677

678 Q: ...may need from you. As far as, you know, the - the assault aspect of it, um,
679 you - you won't have to do any of that.

680

681 A: Okay. I'll talk to them about the DUI and stuff and see, okay.

682

683 Q: Uh, yeah, that'll be between you guys. And, uh, let's see, uh, when you went
684 in the room did you - did you notice, uh, did you see the magazine or, uh...

685

686 A: I'd seen one mag- - I, um, when I was in there, yeah, I know they were
687 lookin'. I'd seen the one - the magazine, um, there was a magazine layin' on
688 the floor kind of up by one of the wheels of the bed that was in there. And I
689 remember them pickin' it up and they just kinda laid it down there. And I
690 kinda said, "Just - yeah, just leave it there, you know, don't," I know 'cause I
691 got to thinkin', it's like, yeah, we don't want to do too much with the gun, you
692 know, at that point. So I said, "Yeah, just lay that there," you know, and so I
693 think - I - I don't know if they laid it there. I think actually he might have put
694 it in his pocket, just so it wasn't layin' around. But I mean I do remember
695 seein' a magazine layin' on the floor down by the, um, down by the wheel
696 there. You know, I know - I realize - when I seen - I'd seen that there then I
697 noticed that Hernandez's gun didn't have a magazine in the - in the - in it, you
698 know, it was empty. So I realized, oh, that's gotta be from his, 'cause, you
699 know, it's layin' on the floor there.

700

701 Q: Did you see a shell casing or anything in the...

702

703 A: I didn't see a shell casing or anything.

704

705 Q: Okay. Um...

706

707 A: 'Cause - yeah - yeah, I think I'd asked him about it earlier, and he goes, "I
708 think it got jammed in my gun. I don't know if it's still in there or not, you
709 know." I said, "Well whatever just leave it, you know, they want it - they want
710 you to leave it the way it is." You know, so he goes, "I don't remember if I
711 racked it out or if it's still in there or not.

712

713 Q: Okay.

714

715 A: But at - at that point, like I said, I went back out and those guys kinda - I know
716 they - I think they found it, you know, 'cause the, you know, found a round or
717 somethin'. And they said, "Well we found some stuff, we just laid it on the
718 counter there, 'cause we didn't want to just leave it layin' around in the
719 room." I said, "All right, that's good, just leave it there then, you know, we'll
720 take care of it later."

721
722 Q: Okay.
723
724 A: But I did see the one magazine down on the floor there now that I remember.
725
726 Q: All right.
727
728 Q1: Is there anything we haven't asked you that you feel is important to be on
729 record?
730
731 A: Not that I can think of. No, I can't think of anything else. We've kinda
732 covered everything that I can think of.
733
734 Q: Okay. Now before we leave here, we'll exchange, uh, information. I'll give
735 you my business card. If anything comes up, feel free to reach out to us...
736
737 A: Okay.
738
739 Q: ...at any time. Um, all right, I just mentioned it to the other Troopers, but you
740 know of the resources available to the...
741
742 A: Yeah.
743
744 Q: ...to the Department, so...
745
746 A: Yeah.
747
748 Q: Uh, that'll be up to you, if you decide to take advantage of any of...
749
750 A: Okay.
751
752 Q: ...those. Um, if there's nothin' else, we'll go ahead and end here...
753
754 A: Okay.
755
756 Q: ...at 1353.

757
758
759 The transcript has been reviewed with the audio recording submitted and it is an accurate
760 transcription.

761 Signed _____



ARIZONA DEPARTMENT OF PUBLIC SAFETY

I. SYNOPSIS

DR NUMBER:	AZ1800238888
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On Sunday, June 10, 2018, at approximately 0228 hours, the Arizona Department of Public Safety (DPS) Highway Patrol (HP) received a call for service reference a vehicle in the ditch at milepost 297 on Interstate 10 (I-10). DPS HP Sergeant Brian Summerfield, #5709, responded to the scene. Summerfield requested additional troopers to respond to the scene as Summerfield initiated an impaired driver investigation. Summerfield ultimately attempted to take the driver into custody who engaged Summerfield in a physical altercation and resisted arrest. As Summerfield struggled with the suspect, a tow truck driver identified as Christopher Frontroth attempted to assist Summerfield. The suspect attempted to take possession of Summerfield's gun and stated he would shoot and kill both Summerfield and Frontroth if he was able to get Summerfield's gun. Two additional troopers were dispatched to the scene, DPS HP Troopers Brent Haymore, #7670, and Allen Hernandez, #10307, and the suspect, identified as Matthew Menard, was taken into custody.

Menard was transported to the Benson Hospital for treatment for the injuries he sustained during the altercation. While at the hospital, Menard was cleared by medical staff to be booked into jail. Menard, in a belligerent state attempted to leave the hospital while still handcuffed to the medical bed. Hernandez attempted to prevent Menard from leaving as Menard was in custody. As Hernandez attempted to prevent Menard from leaving, Menard initiated a physical altercation with Hernandez and attempted to remove Hernandez' gun from his holster. As Hernandez attempted to prevent Menard from gaining access to his handgun and removing it from his holster, a bullet was discharged from Hernandez' firearm which shot out of the bottom of his holster. The round passed through the wall of Menard's patient room, into another patient room where Nurse Julie Qashu was standing. The round exited through the open door of the patient room Qashu was in and lodged into the wall next to the nurse's station.

After the round was discharged, Qashu and the other hospital staff evacuated from the emergency room, fearing for their lives. DPS HP Trooper Joshua Marotto, #10462, responded to the patient room where Hernandez and Menard were located after a witness advised him of the altercation and shooting. Upon entering the room, Marotto observed Menard attempting to gain access of Hernandez's handgun. At which time, Marotto pressed the muzzle of his handgun against Menard's chest and attempted to fire a round.

Marotto's gun failed to discharge due to the handgun being pushed out of battery. Hernandez' gun was removed from Menard's possession. Marotto holstered his handgun and Menard was placed in handcuffs, subdued, and ultimately booked into the Cochise County Jail.

A handgun in Menard's vehicle was discovered after its removal from the scene, and it was determined at the time of the incident, Menard was prohibited from possessing any weapons to include firearms due to having a felony conviction. Detective Travis Deskins, #7891, interviewed Menard and learned Menard had additional firearms at his residence. A new investigation was initiated by Deskins, and a search warrant was authored for Menard's residence located at [REDACTED]

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY

I. SYNOPSIS

DR NUMBER:	AZ1800238888
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Seven guns were seized from Menard's residence.

Menard was later transported and booked into the Cochise County Jail.

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY

II. INVESTIGATION

DR NUMBER:	AZ1800288888
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- | | |
|---|----------------------|
| 1. DPS SIU Detective Michael Valdez, #7625 | Investigative Report |
| 2. DPS SIU Detective Eric Andrews, #7757 | Supplemental Report |
| 3. DPS SIU Detective Rick Ortiz, #6760 | Supplemental Report |
| 4. DPS SIU Detective Robert Olshaskie III, #7027 | Supplemental Report |
| 5. DPS SID Detective Seth Boothe, #6113 | Supplemental Report |
| 6. DPS SID Detective Travis Deskins, #7891 | Supplemental Report |
| 7. DPS SID Detective Adrianna Marshall, #6332 | Supplemental Report |
| 8. DPS SIU Sergeant Jeremy Bulger, #6754 | Supplemental Report |
| 9. DPS SIU Captain Timothy Mason, #4937 | Supplemental Report |
| 10. DPS Investigations Captain Benjamin Buller, #5158 | Supplemental Report |

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284

Summary

Temperature (° F)	Actual	Historic Avg.	Record
High Temp	93	0	102
Low Temp	64	0	57
Day Average Temp	78	0	-
Precipitation (Inches)	Actual	Historic Avg.	Record
Precipitation	0	0	0.47
Month to Date	0	0	-
Year to Date	0	0	-
Degree Days (° F)	Actual	Historic Avg.	Record
Heating Degree Days	0	0	-
HDD Month to Date	0	0	-
HDD Since July 1	0	0	-
Cooling Degree Days	14	0	-
CDD Month to Date	0	0	-
CDD Year to Date	0	0	-
Growing Degree Days	28	-	-
Dew Point (° F)	Actual	Historic Avg.	Record
Dew Point	29	-	-
High	41	-	-
Low	21	-	-
Average	29	-	-
Wind (MPH)	Actual	Historic Avg.	Record
Max Wind Speed	22	-	-

Visibility	10	-	-
Sea Level Pressure (Hg)	Actual	Historic Avg.	Record
Sea Level Pressure	29.86	-	-
Astronomy	Day Length	Rise	Set
Actual Time	14h 10m	5:17 AM	7:27 PM
Civil Twilight		4:49 AM	7:55 PM
Nautical Twilight		4:15 AM	8:29 PM
Astronomical Twilight		3:38 AM	9:06 PM
Moon: waning crescent		3:00 AM	4:10 PM

Daily Observations

Time	Temperature	Dew Point	Humidity	Wind	Wind Speed
Sun Jun 10 2018 00:58:00 GMT-0700 (US Mountain Standard Time)	73 ° F	40 ° F	31 %	CALM	0 mph
Sun Jun 10 2018 01:58:00 GMT-0700 (US Mountain Standard Time)	70 ° F	40 ° F	34 %	CALM	0 mph
Sun Jun 10 2018 02:58:00 GMT-0700 (US Mountain Standard Time)	67 ° F	41 ° F	38 %	CALM	0 mph
Sun Jun 10 2018 03:58:00 GMT-0700 (US Mountain Standard Time)	66 ° F	41 ° F	40 %	CALM	0 mph
Sun Jun 10 2018 04:58:00 GMT-0700 (US Mountain Standard Time)	65 ° F	40 ° F	41 %	SE	3 mph

Sun Jun 10 2018 05:58:00 GMT-0700 (US Mountain Standard Time)	68 ° F	41 ° F	37 %	SE	3 mph
Sun Jun 10 2018 06:58:00 GMT-0700 (US Mountain Standard Time)	77 ° F	41 ° F	28 %	E	3 mph
Sun Jun 10 2018 07:58:00 GMT-0700 (US Mountain Standard Time)	81 ° F	39 ° F	23 %	NNE	5 mph
Sun Jun 10 2018 08:58:00 GMT-0700 (US Mountain Standard Time)	85 ° F	36 ° F	18 %	CALM	0 mph
Sun Jun 10 2018 09:56:00 GMT-0700 (US Mountain Standard Time)	88 ° F	32 ° F	14 %	W	13 mph
Sun Jun 10 2018 09:58:00 GMT-0700 (US Mountain Standard Time)	88 ° F	32 ° F	14 %	W	9 mph
Sun Jun 10 2018 10:23:00 GMT-0700 (US Mountain Standard Time)	90 ° F	32 ° F	13 %	W	15 mph
Sun Jun 10 2018 10:35:00 GMT-0700 (US Mountain Standard Time)	90 ° F	32 ° F	13 %	SW	15 mph
Sun Jun 10 2018 10:58:00 GMT-0700 (US Mountain Standard Time)	91 ° F	32 ° F	12 %	SW	18 mph
Sun Jun 10 2018 11:12:00 GMT-0700 (US Mountain Standard Time)	91 ° F	28 ° F	10 %	W	17 mph
Sun Jun 10 2018 11:39:00 GMT-0700 (US Mountain Standard Time)	91 ° F	28 ° F	10 %	SW	21 mph
Sun Jun 10 2018 11:50:00 GMT-0700 (US Mountain Standard Time)	91 ° F	28 ° F	10 %	WSW	17 mph
Sun Jun 10 2018 11:55:00 GMT-0700 (US Mountain Standard Time)	91 ° F	25 ° F	9 %	W	16 mph
Sun Jun 10 2018 11:58:00 GMT-0700 (US Mountain Standard Time)	91 ° F	25 ° F	9 %	W	14 mph
Sun Jun 10 2018 12:31:00 GMT-0700 (US Mountain Standard Time)	93 ° F	23 ° F	8 %	W	18 mph
Sun Jun 10 2018 12:58:00 GMT-0700 (US Mountain Standard Time)	92 ° F	28 ° F	10 %	WSW	22 mph
Sun Jun 10 2018 13:28:00 GMT-0700 (US Mountain Standard Time)	93 ° F	27 ° F	9 %	WSW	17 mph
Sun Jun 10 2018 13:58:00 GMT-0700 (US Mountain Standard Time)	94 ° F	24 ° F	8 %	WSW	22 mph
Sun Jun 10 2018 14:31:00 GMT-0700 (US Mountain Standard Time)	93 ° F	27 ° F	9 %	WSW	20 mph
Sun Jun 10 2018 14:34:00 GMT-0700 (US Mountain Standard Time)	93 ° F	27 ° F	9 %	W	21 mph
Sun Jun 10 2018 14:58:00 GMT-0700 (US Mountain Standard Time)	93 ° F	26 ° F	9 %	WSW	20 mph
Sun Jun 10 2018 14:59:00 GMT-0700 (US Mountain Standard Time)	93 ° F	28 ° F	10 %	WSW	20 mph
Sun Jun 10 2018 15:08:00 GMT-0700 (US Mountain Standard Time)	93 ° F	28 ° F	10 %	W	18 mph
Sun Jun 10 2018 15:37:00 GMT-0700 (US Mountain Standard Time)	93 ° F	27 ° F	9 %	WSW	15 mph
Sun Jun 10 2018 15:57:00 GMT-0700 (US Mountain Standard Time)	93 ° F	25 ° F	9 %	SW	17 mph
Sun Jun 10 2018 15:58:00 GMT-0700 (US Mountain Standard Time)	92 ° F	23 ° F	8 %	SW	17 mph
Sun Jun 10 2018 16:16:00 GMT-0700 (US Mountain Standard Time)	93 ° F	25 ° F	9 %	W	21 mph
Sun Jun 10 2018 16:26:00 GMT-0700 (US Mountain Standard Time)	93 ° F	25 ° F	9 %	WSW	15 mph
Sun Jun 10 2018 16:40:00 GMT-0700 (US Mountain Standard Time)	93 ° F	23 ° F	8 %	W	18 mph
Sun Jun 10 2018 16:52:00 GMT-0700 (US Mountain Standard Time)	91 ° F	23 ° F	8 %	WSW	21 mph
Sun Jun 10 2018 16:58:00 GMT-0700 (US Mountain Standard Time)	91 ° F	23 ° F	8 %	WSW	18 mph
Sun Jun 10 2018 17:32:00 GMT-0700 (US Mountain Standard Time)	91 ° F	23 ° F	8 %	WSW	15 mph
Sun Jun 10 2018 17:58:00 GMT-0700 (US Mountain Standard Time)	91 ° F	21 ° F	8 %	W	20 mph
Sun Jun 10 2018 18:58:00 GMT-0700 (US Mountain Standard Time)	87 ° F	24 ° F	10 %	W	14 mph
Sun Jun 10 2018 19:58:00 GMT-0700 (US Mountain Standard Time)	81 ° F	27 ° F	14 %	WSW	9 mph
Sun Jun 10 2018 20:49:00 GMT-0700 (US Mountain Standard Time)	79 ° F	28 ° F	16 %	WSW	10 mph
Sun Jun 10 2018 20:58:00 GMT-0700 (US Mountain Standard Time)	79 ° F	28 ° F	15 %	WSW	12 mph
Sun Jun 10 2018 21:41:00 GMT-0700 (US Mountain Standard Time)	79 ° F	28 ° F	16 %	WSW	12 mph
Sun Jun 10 2018 21:58:00 GMT-0700 (US Mountain Standard Time)	78 ° F	28 ° F	16 %	W	10 mph
Sun Jun 10 2018 22:58:00 GMT-0700 (US Mountain Standard Time)	76 ° F	26 ° F	16 %	W	10 mph

Sun Jun 10 2018 23:58:00 GMT-0700 (US Mountain Standard Time)	76 ° F	23 ° F	14 %	WSW	12 mph
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RETURN OF SEARCH WARRANT

Detective Rick Ortiz, a peace officer in the State of Arizona, being duly sworn upon oath, deposes and says:

That on or about the 10th day of June, 2017, Detectives executed search warrant, No. **2018-006072** issued by the Honorable Tracy Nadzieja and the following described property or things were seized:

- See attached list

Your Affiant further certifies that the foregoing inventory is true and detailed account of all the property taken and examined by him pursuant to A.R.S. 13-3921. He has left a copy of the search warrant at 450 South Ocotillo road, Benson, Arizona and 98 center Way, Benson, Arizona.

R. ORTIZ #6760

Affiant, Detective Rick Ortiz #6760
Arizona Department of Public Safety

This warrant returned, subscribed and sworn to before me this 13 day of June, 2018.

Melissa Zabor

Judge, Justice of the Peace, or Magistrate
Of Maricopa County Superior Court

HONORABLE MELISSA ZABOR
MARICOPA COUNTY SUPERIOR COURT



FAX

FROM

Rick Ortiz

TO

Rick Ortiz
AZ DPS

Phone (602) 551-7926 * 91186
Fax Number (602) 551-7926

Phone
Fax Number +16022532645

DATE 06/10/2018

NOTE

please return the warrant to 602-551-8450. Please contact detective Rick Ortiz with any questions 602-206-8685.
Thank you

602-551-8450



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SEARCH WARRANT

STATE OF ARIZONA, COUNTY OF COCHISE

Plaintiff

No. 2018-006072

Vs.

Matthew Joseph Menard

DOB: [REDACTED]

TO ANY PEACE OFFICER IN COCHISE COUNTY, STATE OF ARIZONA,
Proof of affidavit having been made this day before me by Detective Rick Ortiz, I am
satisfied that there is probable cause to believe that;

On the premises known as Mobile Maintenance and Towing LLC, 98 Center Way,
Benson, Arizona in the county of Cochise, Arizona, there is:

- *1998 dark colored Honda sedan bearing Arizona license plate CFA9576, and
VIN #1HGEJ6128WL078492.*

Which contains evidence of Aggravated Assault, a violation of ARS §13-1204,
Endangerment, a violation of ARS §13-1201, Misconduct Involving Weapons
(Prohibited Possessor), a violation of ARS §13-3102 such as;

1. Any Physical characteristics such as DNA (blood, saliva other bodily fluid)
and fingerprints in and around the vehicle.
2. Any Firearms, Firearm parts, ammunition, and bullet fragments.
3. Any and all electronic communications to include but not limited to cellular
telephones, palm pilots, hand held computers, pagers, email, notes, documents
showing communications between co-conspirators and/or victims.
4. All electronic communications, including those previously received or
transmitted, and those in transmission, or held in temporary, intermediate
storage incident to transmission: The terms "records, documents and
materials, including those used to facilitate communications" as used above
shall include any and all communications, previously received, transmitted, or
stored or prepared in contemplation of transmission, or any communications

in the process of being received or transmitted, including electronic mail or data associated with electronic bulletin board systems, whether stored on any of the electronic media named above or held in temporary, intermediate storage incident to transmission to the individuals or premises within the scope of this application. Also to include: Any and all electronic media stored in a removable or fixed memory system on said phone, to include all photographs, videos, text messages, emails, and other data and documentation of said files and phone to include date and time of photographs or other data files taken and any other included information indicating ownership or possession of said phone or data files, to include addresses and/or telephone books and papers reflecting names, addresses, and/or telephone numbers of any persons identified as victims or co-conspirators.

5. All the records above, whether stored on paper, on magnetic media such as tape, cassette, disk, diskette or on memory storage devices such as optical disks, programmable instruments such as telephones, "electronic address books," calculators or any other storage media, together with indicia of use, ownership, possession or control of such records.

Also on the premises known as the Benson Hospital, Located at 450 South Ocotillo Road, Benson, Arizona, a white building with blue trim, which contains evidence of Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13-3102 such as:

6. Any Physical characteristics such as DNA (blood, saliva other bodily fluid) and fingerprints in and around the hospital.
7. Any and all spent ammunition, shell casings, as well as unused ammunition.
8. Any articles of clothing from Matthew Joseph Menard.
9. Any and all police equipment.

Which person, property or things:

- ☒ was used as a means for committing a public offense
- ☒ was possessed with the intent to use it as a means of committing a public offense
- ☐ are in the possession of Arizona Department of Public Safety

- ☒ consists of any items or constitutes any evidence which tends to show that the herein described public offense has been committed, or tends to show that a particular person has committed said offense.

Such being more fully described in the affidavit, to wit: Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13-3102.

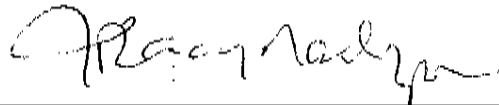
Which offense occurred on or about the 10th of June, 2018 in the County of Cochise, State of Arizona.

YOU ARE THEREFORE COMMANDED

- ☒ In the daytime
- ☐ Or nighttime (good cause therefore having been shown)

to make a search of the above named place or described vehicle for the herein above described information, and if you find the same or any part thereof to retain such in your custody or in the custody of the agency you represent, as provided by ARS §13-3918.

Given under my hand and dated this 10th day of June, 2018



Judge, Justice of the Peace, or Magistrate
of the Maricopa County Superior Court

HONORABLE TRACY NADZIEJA
MARICOPA COUNTY SUPERIOR COURT



ARIZONA DEPARTMENT OF PUBLIC SAFETY
AFFIDAVIT FOR SEARCH WARRANT

COUNTY OF COCHISE
STATE OF ARIZONA

No. 2018-606072

Introduction:

Your affiant, Detective R. Ortiz, is a Peace Officer in the State of Arizona as defined under A.R.S. §13-3010(B), being first duly sworn, upon oath, deposes and says: That on or about the 10th of June, 2018, in the County of Cochise, State of Arizona. Matthew Joseph Menard DOB 01/05/1980 was involved in the Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, and Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13- 3102.

Your affiant has probable cause to believe and he does believe that there is now:

On the premises known as Mobile Maintenance and Towing LLC, 98 Center Way, Benson, Arizona in the county of Cochise, Arizona, there is:

- *1998 dark colored Honda sedan bearing Arizona license plate CFA9576, and VIN #1HGEJ6128WL078492.*

Which contains evidence of Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13- 3102 such as;

1. Any Physical characteristics such as DNA (blood, saliva other bodily fluid) and fingerprints in and around the vehicle.
2. Any Firearms, Firearm parts, ammunition, and bullet fragments.
3. Any and all electronic communications to include but not limited to cellular telephones, palm pilots, hand held computers, pagers, email, notes, documents showing communications between co-conspirators and/or victims.
4. All electronic communications, including those previously received or transmitted, and those in transmission, or held in temporary, intermediate storage incident to transmission: The terms "records, documents and

materials, including those used to facilitate communications" as used above shall include any and all communications, previously received, transmitted, or stored or prepared in contemplation of transmission, or any communications in the process of being received or transmitted, including electronic mail or data associated with electronic bulletin board systems, whether stored on any of the electronic media named above or held in temporary, intermediate storage incident to transmission to the individuals or premises within the scope of this application. Also to include: Any and all electronic media stored in a removable or fixed memory system on said phone, to include all photographs, videos, text messages, emails, and other data and documentation of said files and phone to include date and time of photographs or other data files taken and any other included information indicating ownership or possession of said phone or data files, to include addresses and/or telephone books and papers reflecting names, addresses, and/or telephone numbers of any persons identified as victims or co-conspirators.

5. All the records above, whether stored on paper, on magnetic media such as tape, cassette, disk, diskette or on memory storage devices such as optical disks, programmable instruments such as telephones, "electronic address books," calculators or any other storage media, together with indicia of use, ownership, possession or control of such records.

Also on the premises known as the Benson Hospital, Located at 450 South Ocotillo Road, Benson, Arizona, a white building with blue trim, which contains evidence of Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, and Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13-3102 such as;

6. Any Physical characteristics such as DNA (blood, saliva other bodily fluid) and fingerprints in and around the hospital.
7. Any and all spent ammunition, shell casings, as well as unused ammunition.
8. Any articles of clothing from Matthew Joseph Menard.
9. Any and all police equipment.

Which person, property or things:

- ☒ was used as a means for committing a public offense
- ☒ was possessed with the intent to use it as a means of committing a public offence

- ☐ are in the possession of Arizona Department of Public Safety
- ☒ consists of any items or constitutes any evidence which tends to show that the herein described public offense has been committed, or tends to show that a particular person has committed said offense.

Such being more fully described in the affidavit, to wit: Aggravated Assault, a violation of ARS §13-1204, Endangerment, a violation of ARS §13-1201, and Misconduct Involving Weapons (Prohibited Possessor), a violation of ARS §13- 3102.

Which offense occurred on or about the 10th day of June 2018, in the County of Cochise, State of Arizona.

Affiants Experience:

Detective Ortiz is a police officer with the Arizona Department of Public Safety and has been so employed as a State Police Officer for the past 11 years. Detective Ortiz's first assignment was on patrol in central Phoenix. Detective Ortiz knows central Phoenix is a high volume trafficking area with illegal narcotics, guns, human smuggling and illegal moneys being smuggled in and out of Mexico and the United States. Detective Ortiz's next assignment was on patrol in the greater west Phoenix area. This area included but was not limited to larges stretches of northern Interstate 17 and large stretches of Interstate 10 and State Route 85. Detective Ortiz knows these areas to be major corridors for the trafficking of narcotics, guns, human smuggling and illicit proceeds in and out of Mexico and the United States. During Detective Ortiz's time on patrol he has been the lead investigator in and assisted with numerous investigations directed at the production, transportation and distribution of illegal narcotics and racketeering organizations and their members.

Detective Ortiz's next assignment was part of an investigative group named the Maricopa Narcotics/Highway Interdiction Team (HIT). HIT is charged with investigating illegal organizations involved in drug trafficking and money laundering. Members of HIT have specialized training and experience in identifying assets held by illegal enterprises that would be used for future drug deals and enterprise activities. Members of HIT have one goal, to disrupt organizations that deal in illegal drugs and profit from the sale of those drugs.

Detective Ortiz has been the lead investigator and participated in over a hundred narcotic investigations during which he targeted individuals using, selling, transporting, and manufacturing illegal drugs to include Marijuana, Methamphetamine, Cocaine, Heroin, and prescription narcotics.

Detective Ortiz's next assignment is as an undercover detective with the DPS state gang task force. While working in an undercover capacity, Detective Ortiz has conducted

surveillance on, befriended, and purchased illicit drugs from criminal enterprise members.

Detective Ortiz's next assignment is as a Detective on the DPS Conspiracy Unit. The Conspiracy Unit's sole tasking is to investigate, dismantle, and disrupt command and control of large scale Transnational Criminal Organizations.

Detective Ortiz is currently temporarily assigned to the DPS Special Investigations Unit (SIU). SIU is an investigative unit tasked with investigating officer involved shootings, Homicides, and other sensitive investigations.

He has also attended numerous seminars and training classes, receiving classroom and practical instruction related to his assignments including:

- 72 hours with the Tucson Police Department, Drug Recognition Expert School
- Current Auto Theft Trends and Strategies training at the Southwest Law Enforcement EXPO
- AZ Most Common Liquor Violations and Fake ID training at the Southwest Law Enforcement EXPO
- 14 hours with the Arizona Department of Corrections, inside the Mexican Drug Cartel training.
- 16 hours with the Federal Bureau of Investigations, Russian, Asian, African Cyber/Health Care and Mortgage Fraud.
- 24 hours with the Western Regional Counterdrug Training Center (WRCTC), program title Financial Investigative Techniques: Follow the Money
- Vehicle concealment demonstrations with Seized and Purpose Built Vehicles
- 40 hours with the North West White Collar Crimes Center, Financial Investigation Practical Skills (FIPS)
- 24 hours with Reid Institute Interview and Interrogation School
- 6 hours with the South West Border Money Laundering Conference
- 32 hours Phase I & II Practical Kinesic Interview and Interrogation Techniques
- 7 hours with the U.S. Marshals Service, Patron Saints of the Mexican Drug Underworld

- 24 hours with Serrato and Associates, Inc. Undercover Operations and Techniques
- 40 hours with Phoenix Training Council, Criminal Investigations Utilizing Cellular Technologies.
- 7 hours with Covert Track, Basic GPS tracking.
- 16 hours with Cellebrite, certification course for use of the cellebrite applications.

Detective Ortiz also attended several hours of drug interdiction training, and criminal interdiction training through the Arizona Law Enforcement Academy and the Arizona Department of Public Safety Advanced Officer Training. Detective Ortiz also attends annual training provided by the Arizona Narcotics Officer Association (ANOA) and the Arizona Gang Investigators Association (AZGIA). Detective Ortiz also attended several hours of drug interdiction training, and criminal interdiction training through the Arizona Law Enforcement Academy and the Arizona Department of Public Safety Advanced Officer Training.

This training included, but was not limited to, the identification and recognition of illicit drugs, including marijuana, cocaine and methamphetamine, the investigation and identification of the methods by which assets are hidden by criminal organizations and a review of the state and federal forfeiture laws. Detective Ortiz has participated in over a hundred drug investigations and drug related seizures.

Detective Ortiz's investigative efforts have led to the identification of organizations members involved in money laundering, conspiracy to traffic drugs and other illicit activities. Detective Ortiz's investigations have resulted in the criminal indictment of organizational members, the dismantling of criminal organizations, and to the identification of monies earned through racketeering violations.

Detective Ortiz has authored affidavits in support of search warrants which ultimately led to forfeitures of millions of dollars in illegal enterprise monies and assets.

Details of investigation:

Your Affiant and other detectives within the Arizona Department of Public Safety (DPS) are investigating the aggravated assault, endangerment and misconduct involving weapons violations, committed by Matthew Joseph Menard.

On or about June 10, 2018, DPS Officers responded to a collision on Interstate 10, in the area of MP 297. Upon the officer's arrival, a single vehicle collision was located. The driver and sole occupant of the vehicle, a dark colored 1998 Honda sedan bearing Arizona license plate CFA9576 and VIN# 1HGEJ6128WL078492, was identified as Matthew Joseph Menard by his Arizona driver's license. During the initial investigation Menard was suspected to be impaired and in an attempt to take Menard into custody,

Menard began to fight with officers which resulted in multiple Taser deployments. Menard was taken into custody and transported to Benson Hospital for minor injuries. Menard's vehicle was taken by Mobile Maintenance and Towing LLC and currently being stored at their storage lot, located at 98 Center Way, Benson, Arizona.

Shortly after being cleared by medical staff at the Benson Hospital, 450 South Ocotillo Road, Benson, Arizona, Menard attempted to leave the hospital. Menard was restrained by an officer. Menard then attempted to gain control of the officer's gun. During the struggle, one round was fired into a wall. Menard was eventually restrained and officers regained control of the gun. No one was injured due to the gun shot. Several officers and hospital staff were in close proximity when the gun was fired placing them in imminent risk of death or serious bodily harm.

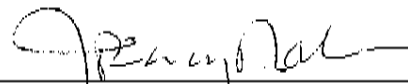
Detectives were notified by Mobile Maintenance and Towing, a gun was located in the glove box of the 1998 Honda sedan. A criminal records check of Menard showed he is a convicted felon.

For the above listed vehicles herein described and that the same be retained in the custody of your Affiant or in the custody of the agency which your Affiant represents and disposed of according to law, pursuant to ARS §13-3920.

R. ORTIZ #6760

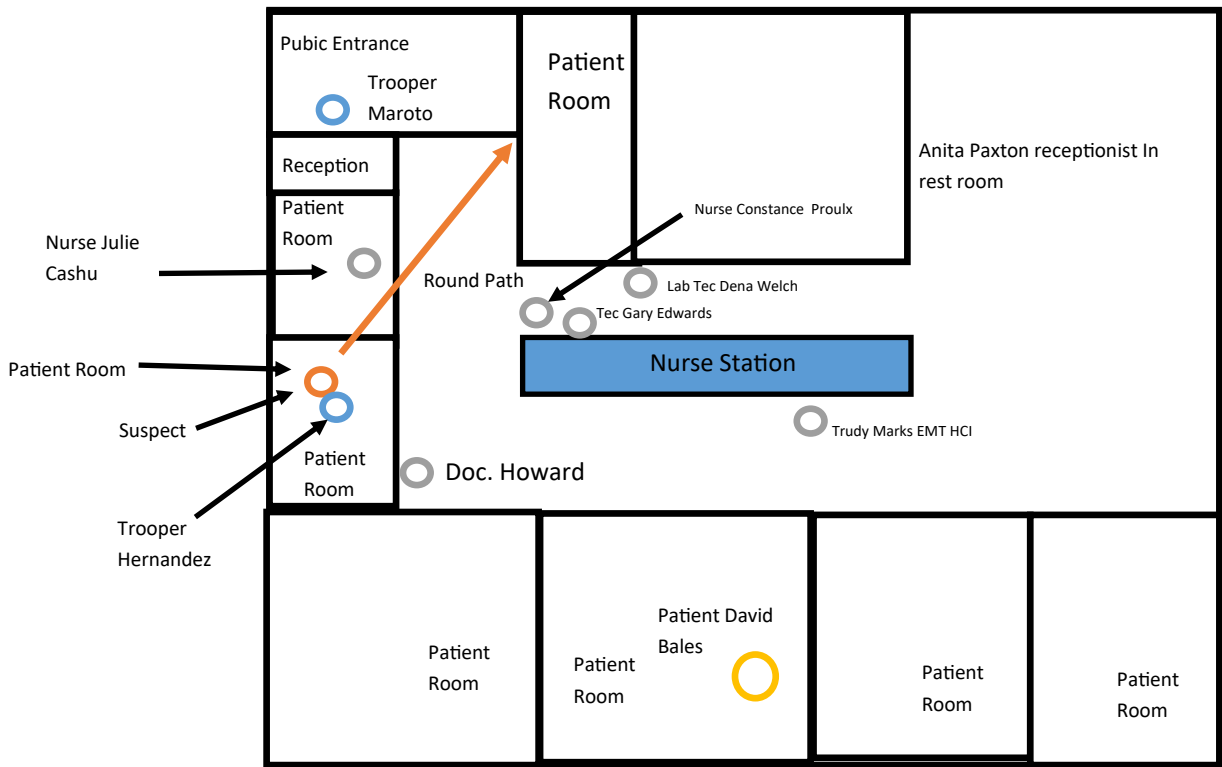
Affiant, Detective Rick Ortiz #6760
Arizona Department of Public Safety

SUBSCRIBED AND SWORN TO before me this 10th day of June 2018



Judge, Justice of the Peace, or Magistrate
of the Maricopa County Superior Court

HONORABLE TRACY NADZIBJA
MARICOPA COUNTY SUPERIOR COURT



06/17/18 12:08:08 PRINT REQUESTED BY TERMINAL FAD2

Incident History for: #P1806100094 Xref: #P1806100371
Agency Numbers: *PS18351196

Entered	06/10/18	02:28:45	BY TD04	/PS10336
Dispatched	06/10/18	02:29:24	BY TD04	/PS10336
Enroute	06/10/18	02:29:24		
Onscene	06/10/18	02:36:26		
Closed	06/10/18	20:56:52		

Initial Type: 964	Final Type: 998	(OFCR INVOL SHOOTING)
Initial Priority: 1	Final Priority: E	
Disposition: BKD	Source: T	Primary Unit: 924
Patrol BLK: 09	Fire BLK:	Other BLK:
Group: 09	Beat:	TB Map Page:
Loc: BISBEE JAIL (NV)		
Name: CJ MOBILE MAINT	Addr:	Phone:

Cell lat/long: / E911 line:

/0228	(PS10336)	ENTRY		TD04: UNK VEH WENT OFF INTO DITCH, IN FRONT OF MOBILE MAINTENANCE. CAN SE E RED LIGHTS, HEAR YELLING. NEXT TO CHEVRON
/0229		\$AGYNO	920	*PS18351196
/0229		DISPER	920	#PS5709 SUMMERFIELD, BRIAN , FROM 305
/0229		MISC		,CALL OUT 921
/0230		AMB		,HCI/WLX PD
/0232		AMB		,MESCAL FIRE
/0233		MISC		,06/10/18 02:33:43 Message To: TD04 From: 92 0
/0233		MISC		, RE: RP WAS NOT ABLE TO ADV EB OR WB, JUST TH AT IT WAS
/0233		MISC		,WB
/0234	(PS5855)	ASST	921	#PS7670 HAYMORE, BRENT , CALLED OUT
/0234	(PS10336)	CHANGE		LOC: UD I10 AT 297 --> WB I10 AT 297 MP ,AZH, BLK: --> 09 [MEADOWLARK]
/0236		NEWLOC	920	
/0239		ENROUT	921	
/0240		CHANGE		TYP: 964 --> C34 RSP: P --> P PRI: 1 --> 3 ,POSS 1381
/0240		MISC		,CANCELING MEDS
/0243		MISC	920	,1090
/0244		MISC	920	,FIGHTING ONE, 244
/0244	(PS5855)	ASSTER	1721	[MEADOWLARK] #PS6020 PALMER, ROBERT
/0244		MISC	1721	,FROM MM
/0244	(PS10336)	MISC	920	,HOLDING TRAFFIC
/0245	(PS5855)	ASSTER	1727	[MEADOWLARK] #PS10193 MINNIX, COREY ,FROM 400 W CONG
/0245	(PS10336)	MISC	920	,BENSON PD SENDING 1 UNIT
/0246	(PS5855)	OTHER		,CCSO
/0246		OTHER		,CCSO ADVISED NO UNITS AVAIL
/0247	(PS10336)	MISC	920	,STILL NEED ADITONAL UNIT

/0248	(PS5855)	OTHER		,PIMA CO SO SENDING UNITS
/0248		OTHER		,PIMA SO FROM I10/WENTWORTH
/0248	(PS10336)	MISC	920	,START MEDS
/0250		ASSTER	912	[MEADOWLARK]
				#PS10307 HERNANDEZ, ALLEN
/0250	(PS5855)	MISC		,PIMA SO WILL START MISCAL MEDS FOR US
/0250	(PS10336)	ONSCNE	921	
/0251	(PS5855)	ASSTER	1614	[MEADOWLARK]
				#PS7228 PEACOCK, LAWRENCE
/0251		MISC	1614	,06/10/18 02:51:14 Message From: 1614
/0251		MISC	1614	,I'M 19 TO 920
/0251	(PS10336)	MISC	920	,BP ADV 4 AGENTS AND A SGT 1019
/0252		CHANGE		TYP: C34 --> 1090
				RSP: P --> P
				PRI: 3 --> 2
/0252	(PS5855)	SUPP		TXT: PIMA SO ALMOST PASSING SR83 JCT NOW, STILL
				L 1019 ,
				SRC: T
/0252	(PS10336)	MISC	920	,BENSON PD ADV ALL MEDS ARE 1019
/0253		MISC	921	,C4 RECEIVED 1015 X1
/0253	(PS5855)	OTHER		,PIMA SO WILL 10-22
/0253	(PS10336)	MISC	920	,CLEAR AIR
/0254	(PS5855)	CLEAR	1727	,1022
/0254		CLEAR	1721	,1022
/0258		\$PREMPT	1614	
/0259	(PS10336)	REMINQ	920	CFA9576
/0259		MISC	920	,MOBILE MAINT WILL BE TAKING VEH
/0259		ROTREQ	920	LTOW,MM9L,BNL,MOBILE MAINTENANCE--BENSON,
				[REDACTED]
/0300		REMINQ	920	WANT,920,ALBERTSON,HAROLDJ,M,[REDACTED], , , ,
/0306		OK	921	
/0309		ONSCNE	912	
/0313		MISC	921	,RIDING WITH AMBULANCE TO HOSPITAL IN BENSON
/0313		MISC	912	,FOLLOWING 921
/0313		CHGLOC	921	[BENSON HOSP]
/0313		CHGLOC	912	[BENSON HOSP]
/0324		ONSCNE	912	
/0324		ONSCNE	921	
/0325		CLEAR	920	
/0333	(PS7670)	*REMINQ	921	MWANT,MENARD,MATTHEW,M,[REDACTED], , , ,
/0406	(PS10336)	ASSTOS	920	[BENSON HOSP]
				#PS5709 SUMMERFIELD, BRIAN
/0407		MISC	921	,*****2018030666*****
/0408		MISC	920	,*****2018030666*****
/0408		ASSTOS	917	[BENSON HOSP]
				#PS10462 MAROTTO, JOSHUA
/0408		MISC	917	,1091 INSIDE BENSON HOSP
/0409		MISC	917	,SHOTS FIRED INSIDE BENSON HOSPITAL
/0409	(PS5855)	MISC		,CALLING CCSO
/0409	(PS10336)	MISC	917	,C4
/0409		MISC	917	,10-21 BENSON PD
/0409	(PS5855)	OTHER		,CCSO WILL TRY TO FREE UNITS TO RESPOND, WILL
				CALL BACK
/0409	(PS10336)	OPCOMM	917	,CATALANO/10336 ACTING
/0410		MISC	917	,CCSO IS 1019
/0411	(PS5855)	SGT		,BYRNE/910 ADVISED
/0412	(PS10336)	MISC	917	,BENSON PD 97
/0414		CAPT	917	,CHASE/5644, VIA 1021 VM, HE IS CURRENTLY 1021
				WITH 900
/0414	(PS5855)	SUPP		TXT: 910 SAID TO CALL 900 AND SEE IF HE WANTS

/0416	(PS10336)	CHANGE		910 TO RESPOND , SRC: T TYP: 1090 --> SHOTS RSP: P --> P PRI: 2 --> 2
/0417		DUTY		,UPDATED
/0438		MISC	920	,INITIATE HOSPITAL COMMAND
/0438		NEWLOC	920	[HOSPITAL COMMAND]
/0445	(PS5855)	SUPP		TXT: 920 ON 10-21 REQ CALLOUT CH30 OR CH32 TO TALK TO 912 , SRC: T ,MSG TO DOCAD FOR CHAPLAIN CALLOUT
/0446		DUTY		,DO02 COPIES REQUEST FOR CHAPLAIN, ADVISED STA
/0451		DUTY		NDBY
/0453	(PS10336)	TRANS	921	[BENSON PD]
/0454		CHANGE		TYP: SHOTS --> 998 RSP: P --> PPS PRI: 2 --> E
/0456		TRANSC	921	
/0458		MISC		,06/10/18 04:58:00 Message To: TD04 From: DO 02
/0458		MISC		,CH CUTLIPO WILL CTC SERGEANT OR 912.
/0500		ASSTER	900	[BENSON HOSP] #PS5664 CHASE, D ,FROM SV
/0502		MISC	900	,CONTACT PIO, SEE IF SOMEONE CAN 10-21
/0505		MISC	900	,CALL OUT 906, HAVE HIM RESPOND TO SCENE
/0507		ASST	906	[BENSON HOSP] #PS4015 TAPIA, MARTY
/0510	(PS5855)	OPCOMM		,TEXT TO 6002/RODRIGUEZ
/0517	(PS10336)	MISC	920	,CJ FROM MOBILE MAINT CALLED, ADV FOUND A GUN IN THE VEHICLE.
/0518		MISC	920	,CJ CELL: [REDACTED]
/0519		MISC		,WAS IN GLOVE BOX OF VEHICLE, CJ MENTIONED THA T THE SUBJECT HAD THREATENED TO KILL 920 AND H IM
/0521	(PS4015)	*ENROUT	906	
/0527	(PS10336)	MISC		,10-27 ALBERTSON IS PASSENGER
/0529	(PS4015)	*ONSCNE	906	
/0543	(PS5855)	ASSTER	B200	[HOSPITAL COMMAND] #PS5158 BULLER, BEN
/0546	(PS10336)	ASSTER	927	[HOSPITAL COMMAND] #PS4231 DRUMMOND, CHRIS
/0547		CLEAR	900	
/0552	(PS5855)	ASSTER	B216	[HOSPITAL COMMAND] #PS7891 DESKINS, TRAVIS
/0601	(PS10219)	ASSTER	D305	#PS6754 BULGER, JEREMY
/0601		ASSTER	D300	[BENSON HOSP] #PS4937 MASON, TIM
/0605	(PS5183)	ONSCNE	B200	
/0608		MISC	920	,926 DRIVER: CHRIS FRONTROTH CELL: [REDACTED]
/0610		ASSTER	B219	#PS6332 MARSHALL, ADRIANA
/0614	(PS10405)	ASSTER	D311	#PS7027 OLSHASKIE III, ROBERT
/0634		ASSTER	D315	#PS6760 ORTIZ, RICK
/0634		MISC	D315	,06/10/18 06:34:13 Message From: D315
/0634		MISC	D315	,CAN YOU SHOW ME 1019 TO THE 998 CALL PLEASE
/0637	(PS5183)	NEWLOC	920	[103]
/0642		NEWLOC	906	[BENSON 103]
/0642		NEWLOC	912	[BENSON 103]

/0642	(PS6947)	ASSTER	D312	[BENSON HOSP]
				#PS7757 ANDREWS, ERIC
/0642	(PS5183)	NEWLOC	917	[BENSON 103]
/0642		CHGLOC	927	[BENSON PD]
/0644	(PS5726)	CLEAR	D305	
/0645		ASSTER	D305	#PS6754 BULGER, JEREMY
/0651	(PS4231)	*ONSCNE	927	
/0653	(PS5183)	ONSCNE	B219	
/0706		NEWLOC	921	[BENSON 103]
/0707		ASSTOS	900	[BENSON 103]
				#PS5664 CHASE, D
/0707		MISC		,916 ALSO 103 BENSON
/0709	(PS6947)	\$PREMPT	D305	
/0732	(PS7896)	MISC	D311	,COPY WW CLOSURE INFO
/0805	(PS5183)	ASSTOS	D314	#PS7625 VALDEZ, MICHAEL
/0815		ONSCNE	D312	
/0815		ONSCNE	D300	
/0820	(PS6947)	ASSTER	D305	[WB I10 AT 297 MP ,AZH]
				#PS6754 BULGER, JEREMY
/0836	(PS5664)	*CLEAR	900	
/0916	(PS6760)	*ONSCNE	D315	
/0941	(PS4524)	REMINQ	B219	QASHU.JULIE..F.03211971..
/0953	(PS5183)	ONSCNE	D305	
/1000		CROSS		#P1806100371
/1010	(PS5709)	*REMINQ	920	MWANT,MENARD,MATTHEWM,M, , , ,
/1014	(PS5183)	ONSCNE	D311	
/1017	(PS6760)	*REMINQ	D315	CFA9576
/1045	(PS4524)	CLEAR	B200	
/1057	(PS10405)	ASSTER	D332	#PS7033 WARREN, EDWARD
/1111	(PS5709)	*REMINQ	920	MVEH,CFA9576,AZ, , , , , , , , , ,
/1145		*REMINQ	920	MWANT,ALBERTSON,HAROLDJ,M, , , ,
/1219	(PS4015)	*CLEAR	906	
/1226	(PS6947)	SUPP		TXT: CHRIS FROM MOBILE MAINT ADV HE IS STILL W
				AITING ON 1017'S AND FOR A UNIT TO PICK UP GUN
				HE FOUND IN VEHICLE ,
				SRC: T
/1226		SUPP		TXT: CHRIS CAN BE REACHED AT ,
				SRC: T
/1227		SUPP		TXT: CORRECTION 10-21 FOR CHRIS IS
				SRC: T
				,920 UPDATED
/1229	(PS5183)	MISC		
/1316		CLEAR	D312	
/1347	(PS10135)	CLEAR	921	
/1407		ASSTOS	924	[BENSON PD]
				#PS10262 LEE, DALE
/1409		CLEAR	B219	
/1413	(PS4231)	*CHGLOC	927	[BNSN 103]
/1415	(PS10135)	\$PREMPT	917	
/1416	(PS4231)	*ONSCNE	927	
/1430	(PS10262)	*REMINQ	924	MWANT,STEINER,KEVIN,M, , , ,
/1431		*CLEAR	924	
/1432	(PS10135)	CLEAR	912	
/1433		ASSTOS	924	[BNSN 103]
				#PS10262 LEE, DALE
/1439		MISC	D300	,TERMINATE COMMAND
/1440		NEWLOC	D311	[MOBILE MAINTENANCE]
/1440		NEWLOC	D300	[MOBILE MAINTENANCE]
/1440		NEWLOC	B216	[BNSN 103]
/1448	(PS6948)	CLEAR	D332	

/1458	(PS10135)	CLEAR	D300	
/1458		ASSTOS	D300	#PS4937 MASON, TIM
/1458		CLEAR	D300	
/1507	(PS5709)	*CLEAR	920	
/1530	(PS10135)	CHGLOC	D311	[BENSON HOSP]
/1532	(PS7853)	CLEAR	B216	
/1537	(PS10135)	ONSCNE	D311	
/1539	(PS4231)	*NEWLOC	927	[MOBILE MAINT TOWING]
/1546		*CLEAR	927	
/1619	(PS10135)	CLEAR	D311	
/1730		CLEAR	924	LOC: WB I10 AT 297 MP ,AZH --> BISBEE JAIL
/1730		ASSTOS	924	#PS10262 LEE, DALE
/1730		CHGLOC	924	[JAIL]
/1730		CONTCT	924	Contact timer set: 30 Minute(s)
/1809		CONTCT	924	Contact timer set: 30 Minute(s)
				,C4 80/336
/1815	(PS6760)	*CLEAR	D315	
/1816	(PS10135)	CLEAR	D305	
/1821	(PS10262)	*ONSCNE	924	
/1849		*CLEAR	924	DSP: BKD
				,BOOKED ON 13-1104A3 X3, 13-1204A2 X3, 13-1201
				A X 10, 13-120 4A8 X4, 13-3102A4 X1
/2056	(PS5655)	\$PREMPT	D314	
/2056		CLOSE	924	



ARIZONA DEPARTMENT OF PUBLIC SAFETY

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Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY

INVESTIGATIVE REPORT

DR NUMBER:	AZ1800238888
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This report is authored by Arizona Department of Public Safety (DPS), Special Investigations (SIU) Detective Michael Valdez, #7625.

Notification

On Sunday, June 10, 2018, at approximately 0528 hours, I was contacted by DPS SIU Detective Eric Andrews, #7757. Andrews stated there was an officer-involved shooting which occurred at Benson Hospital in the town of Benson, Arizona. Andrews requested I respond and that additional information would be given upon arrival.

Response/Arrival

At approximately 0623 hours, I responded to the Benson Hospital. At approximately 0805 hours, I arrived at the emergency room of the Benson Hospital where the incident occurred, located at 450 South Ocotillo Ave, Benson, Arizona. Upon my arrival, I observed Highway Patrol (HP) and civilian vehicles in parking stalls within the parking lot of the emergency room.

Upon arriving, I observed the outside of the Benson Hospital was adequately illuminated. The Benson Hospital was surrounded by businesses and other health care offices. The weather was approximately 93.0 degrees Fahrenheit, 8% humidity, clear skies, and wind speeds were approximately 21.9 miles per hour. **(Supportive Documents V.1 – Weather Report)**

I entered the hospital through the south entrance of the emergency room and was granted entry through a controlled access door by the desk attendant. Upon entering through the door, I observed two single-patient rooms along the east wall which were cordoned off with yellow crime scene tape. Across from these two rooms, just to the west, was the Nurse's Station. I observed four additional patient examination rooms along the north wall of the emergency room.

I met with the following DPS personnel located in Emergency Room five: scene commander, Captain Benjamin Buller, #5158, Major Crimes District Commander, Captain Timothy Mason, #4937, Detective Travis Deskins, #7891, Detective Seth Boothe, #6113, and scene scribe, Detective Adriana Marshall, #6332. Buller, Deskins, and Boothe informed me they had conducted interviews with witnesses and victims and still had one interview remaining. The remaining interview to be conducted was with David Bills, a patient of the hospital who was in examination room four at the time of the incident. I accompanied Boothe and Deskins as they conducted the interview with Bills.

Andrews arrived at approximately 0815 hours.

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Crime Scene

The Benson Hospital Emergency Department is comprised of seven patient examination rooms, a reception area, a Nurse's Station and a patient restroom. The patient examination rooms are positioned in a "L" shape, starting on the north wall with rooms two, three, four and five and continuing on to the east wall with room six and seven. The reception area is positioned directly south of patient examination room seven. Directly to the north of rooms two through five there is an elongated desk running from east to west which serves as the Nurse's Station. Along the west side of the Emergency Department there was a patient restroom and access to other areas of the hospital. An additional patient examination room is located directly to the west of the reception area, south of the Nurse's Station.

At the time of the altercation, Receptionist Anita Paxton was in the restroom, located on the west side of the Emergency Department. Emergency Medical Technician Trudy Marks was standing in front of (north of) the Nurse's Station near the west end of the desk and patient David Bills was located in patient examination room number four directly to the north of the Nurse's Station.

Behind (south of) and to the east end of the Nurse's Station were Lab Technicians Dena Welch and Gary Edwards and Nurse Constance Proulx. Doctor Ryan Howard was standing directly outside patient examination room six. Directly to the east of the Nurse's Station, within patient examination room six, the location of the altercation were Mathew Menard and Trooper Allen Hernandez. Within patient examination room seven, directly south of patient room six was Nurse Julie Qashu. Lastly Trooper Joshua Marotto was located in the public waiting room directly south of the reception desk.

Briefing

At approximately 0840 hours, I attended an incident briefing. The incident briefing was conducted by Buller in patient room five. Buller relayed the following information regarding the incident:

On Sunday, June 10, 2018 at approximately 0228 hours, a vehicle was reported off the roadway on the westbound Interstate 10 at milepost 297. The original call for service was issued an incident number in the DPS Computer Automated Dispatch (CAD) system as #P1806100094. The responding unit was identified as DPS Highway Patrol (HP) Sergeant Brian Summerfield, #5709 KALL sign 920, who arrived on-scene at 0236 hours.

(Supportive Documents V.9 – CAD Report)

At 0243 hours, Summerfield requested a "10-90" and stated, "fighting one."

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Case Note: 10-90 is a radio code used by DPS personnel while requesting another unit with a non-urgent response.

At 0250 hours, DPS HP Trooper Brent Haymore, #7670, arrived on-scene to assist Summerfield.

At 0253 hours, Summerfield advised “10-15 times 1, code 4”.

Case Note: 10-15 is a radio code used by DPS personnel while advising there is a suspect taken into custody, arrested.

Case Note: Code 4 is a radio code used by DPS personnel while advising there is no need for further assistance.

Buller noted a short time after the suspect was taken into custody, Trooper Allen Hernandez, #10307, arrived on-scene after working a wide-load escort.

Case Note: Hernandez’s response to the scene and the accurate time of his arrival was not recorded in the call history. The reason the times were not recorded is unknown.

Buller advised Summerfield delivered multiple Taser deployments and physical “strikes” to the suspect. Summerfield was said to have suffered minor injuries such as cuts and scrapes as a result of being assaulted by the suspect, later identified as Matthew Joseph Menard, date of birth [REDACTED]

Case Note: A Taser is an Electronic Control Weapon issued by DPS.

Menard was transported to the Benson Hospital by Healthcare Innovations Ambulance (HCI) “HCI Ambulance” where Menard was to be cleared for booking. Haymore rode in the ambulance with Menard due to his combative behavior. Menard had his left hand handcuffed to the gurney as he rode in the ambulance and while he was being evaluated by medical personnel at the Benson Hospital.

After being medically cleared by medical personnel at the Benson Hospital, Menard attempted to leave the patient room while he was handcuffed to the bed. Hernandez, who had been assigned to guard Menard, attempted to stop him from leaving the room. As Menard attempted to exit the room, a struggle ensued between Hernandez and Menard, where Hernandez’s handgun was somehow removed from his holster.

As the struggle between Hernandez and Menard ensued, Trooper Joshua Marotto, #10462, was in the Benson Hospital Waiting Room waiting for his Field Training Instructor, Trooper Bobbie Woolley, #6519.

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One round was shot from Hernandez' firearm as Hernandez struggled to regain control of his department issued firearm from Menard, who had been attempting to remove the firearm from Hernandez' holster. The bullet traveled through the south wall which separates room six and seven within the emergency room. A nurse identified as Julie Qashu had been standing in room seven at the time the round was fired from Hernandez' firearm. The bullet continued through room seven and out of room seven's door which was open at the time. The bullet became lodged in the southern wall of the emergency room area.

Qashu ran out of the emergency room area toward the waiting room, ultimately opening the door for Marotto to make entry into the emergency room area. As Marotto made entry into room six to assist Hernandez who was still struggling with Menard, Marotto "muzzle punched" Menard and attempted to fire by pulling the trigger of his department issued firearm which caused his firearm to go "out of battery."

Case note: A muzzle punch is a physical act of throwing a strike using the muzzle of the gun as a striking instrument.

Case note: "Out of battery" is a term used to describe the condition of a firearm in which the firing mechanism is not properly aligned to cause a normal firing position.

Hernandez told Marotto to holster his weapon because he was able to gain control of Menard and place him into handcuffs. Menard was later removed from the hospital and transported to the Benson Police Department located at 360 South Gila Street, Benson, Arizona.

Buller provided me with a diagram of the Emergency Department that included a depiction of where hospital staff were believed to be when the shooting occurred.

(Supportive Documents V.3 – Diagram)

Case note: the diagram was not completed to scale.

Buller also relayed the following information:

- A 10-91 was declared at 0409 hours, inside the Benson Hospital, shots fired inside the Benson Hospital

Case note: 10-91 is a radio code used by DPS personnel while requesting another unit with an urgent response.

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- The suspect was identified as:
Matthew Menard
[REDACTED]
Social Security Number (SSN): [REDACTED]
Operator License Number (OLN): D06884304
- The involved Highway Patrol Units were identified as follows:
920- Sergeant Brian Summerfield, #5704
912- Trooper Allen Hernandez, #10307
921- Trooper Brent Haymore, #7670
916- Trooper Bobbie Woolley, #6519 (Field Training Instructor)
917F- Trooper Joshua Marotto, #10462 (Trooper in Training Status)
- At the time of the shooting:
 - Marotto was in the Benson Hospital Waiting Room
 - Woolley was outside the Benson Hospital in the parking lot
 - Haymore was outside the Benson Hospital in the parking lot
 - Summerfield was outside the Benson Hospital in the parking lot

SIU Briefing

At the conclusion of Buller's incident briefing, Mason conducted an SIU briefing where the following tasks were assigned:

- Lead Detective – DPS SIU Detective Michael Valdez, #7625
- Co-Lead Detective – DPS SIU Detective Rick Ortiz, #6760
- Lead Crime Scene Detective – DPS SIU Detective Eric Andrews, #7757
- Assisting Detective – DPS SIU Detective Robert Olshaskie, #7027
- Scene Supervisor – DPS SIU Sergeant Jeremy Bulger, #6754

Chronological Sequence of Events

Based on the involved parties' interviews, audio recordings, witness interviews, supplemental reports, crime scene evidence and other incident related documents, the following narrative describes the events which occurred during the incident.

On Sunday, June 10, 2018, at approximately 0135 hours, Sergeant Brian Summerfield, #5709, was called out by the DPS Operational Communications (OPCOMM) and responded to a blocking collision located at milepost 306 on the eastbound Interstate 10, identified by the CAD

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number #P1806100057. While en-route to the collision, a report of a separate incident was received by the OPCOMM and Summerfield was diverted from the blocking collision to respond to the recently received incident.

At 0228 hours, a vehicle was reported as having went off the roadway and into a ditch. The location was described as in front of the "Mobile Maintenance." The caller could see red lights and heard yelling next to the Chevron located near milepost 297 on the westbound Interstate 10. Summerfield advised the OPCOMM to callout Trooper Brent Haymore, #7670, to assist.

The caller, identified as Christopher Frontroth, responded to the scene after reporting the incident. Frontroth believed a collision had occurred. Frontroth was a tow truck driver and the company he works for, "Mobile Maintenance" had a towing contract with the DPS.

Frontroth checked to ensure the occupants of the involved vehicle were not harmed. Frontroth advised the occupants involved in the crash he had called medical and law enforcement.

At approximately 0236 hours, Summerfield, driving a fully marked DPS HP patrol car, and wearing his DPS HP Class-B uniform, arrived on-scene and advised the OPCOMM there was no collision and the incident classification could be changed to a motorist assist. Upon arriving on scene, he spoke to a male subject who he identified as a passenger from the vehicle. The male passenger identified himself verbally as Harold Albertson by name with a date of birth of [REDACTED]. While on-scene, Summerfield observed the involved vehicle along with a tow truck present. Haymore continued to respond to the incident.

Case note: The DPS HP Class-B uniform worn by Summerfield was comprised of a Silver-Tan Collared short-sleeve button style shirt, with silver-tan uniform style slacks, a gold-plated breast seven-point style badge over the left chest, and a nylon gun belt with accessories to match.

While on-scene with the involved, Summerfield observed the driver of the vehicle, (later identified as Matthew Menard, date of birth [REDACTED]) walk up behind Summerfield. Menard stated the vehicle he was driving, a black and blue 1998 two door Honda Civic bearing an Arizona License plate of CFA9576, had pulled to the left and he had run off the road. Summerfield observed Menard exhibiting signs of impairment, specifically detecting the odor of an intoxicating beverage emitting from Menard's person. Summerfield notified the OPCOMM of his observations at approximately 0240 hours.

Summerfield asked Menard if he would be able to perform field sobriety tests to rule out impairment. Menard stated to "go ahead" and the "tests weren't any good anyway." Summerfield administered field sobriety tests on Menard and stated he observed the following indicators of impairment:

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- Six out of six clues during the Horizontal Gaze Nystagmus (HGN) field sobriety test
- Seven out eight clues of impairment during the "Walk and Turn" field sobriety test

Prior to beginning the Walk and Turn, Menard told Summerfield he had a bad knee. During the Walk and Turn, Summerfield stated Menard grabbed his knees and Menard stated his knees hurt. Summerfield stopped the test and stated he had seen plenty of indicators to determine Menard was impaired. While witnessing the field sobriety tests, Frontroth stated he could smell alcohol on Menard and observed Menard was "not doing very well" while "walking the white line."

Due to the indicators mentioned above, and based on Summerfield's training and experience, Summerfield attempted to take Menard into custody and place him under arrest for driving under the influence (DUI), a violation of Arizona Revised Statute §28-1381.

At 0243 hours, Summerfield requested a unit to respond to his location to assist him.

At 0244 hours, as Summerfield attempted to retrieve his handcuffs from his gun belt, and he informed Menard he was under arrest for DUI. Menard began resisting arrest by refusing to put his hands behind his back and Menard pulled away from Summerfield. Summerfield stated while attempting to gain control of Menard's arm, Summerfield dropped his flashlight. Summerfield grabbed Menard and attempted to take him to the ground to place Menard into custody. Summerfield advised the OPCOMM he was in a fight with Menard. Menard was combative and resisting arrest.

Menard landed on his back after Summerfield took Menard to the ground. Menard began grabbing Summerfield and tried to escape Summerfield's custody. Summerfield stated he was not sure how long he had been attempting to place Menard under arrest while Menard continued to struggle, but at some point, Summerfield saw Frontroth attempting to assist Summerfield take Menard into custody by grabbing Menard's right arm.

Summerfield gave numerous commands to Menard to, "quit resisting," none of which had any effect on the Menard. Menard made statements claiming Summerfield was violating his rights and Menard became combative with Summerfield by wrestling and pushing away from Summerfield in an attempt to escape custody.

Summerfield stated at some point while attempting to arrest Menard, his handcuffs were knocked away from him and Frontroth was able to recover the handcuffs. Frontroth recovered Summerfield's handcuffs and attempted to assist handcuffing Menard.

During the struggle with Menard, Summerfield was able to place one handcuff on Menard's hand and Frontroth attempted to handcuff Menard's other hand. Menard continued to struggle with

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Summerfield and continued to push away from Summerfield as he was placing Menard under arrest. Summerfield warned Menard, if he did not stop resisting, he was going to be tased. Menard told Summerfield he did not care, and the Taser did not affect him. Summerfield stated he drew his Taser and pointed it at Menard's chest and fired one cartridge. Summerfield stated the Taser deployment had little to no effect on Menard. Menard knocked the Taser out of Summerfield's hands, therefore continuing to resist Summerfield from taking him into custody.

Summerfield attempted to regain control of Menard and stated, the next thing he felt was Menard "tugging" at Summerfield's holster numerous times. Summerfield stated he realized Menard was attempting to gain control or remove Summerfield's handgun from his holster. Frontroth stated Menard said, "if he got the gun, he was gonna kill us," (referring to both Summerfield and Frontroth). Summerfield also believed Menard would have shot him had he been able to remove his handgun.

Frontroth stated his thoughts were to keep Menard from getting Summerfield's handgun because he had no doubt Menard would have shot Frontroth and Summerfield if he had been able to take possession of it. Frontroth stated he feared for both his life and Summerfield's life. Summerfield continued to deflect Menard's hands from grabbing his handgun and was able to re-acquire his Taser.

It was later determined, Menard is prohibited by law from possessing any weapons to include firearms. By attempting to take possession of Summerfield's handgun, and Menard stating he would shoot both Summerfield and Frontroth, Menard committed the offenses of Misconduct Involving Weapons, and Attempted Homicide.

(Supportive Documents V.6 – Certified States of California Felony Conviction)

Summerfield pointed the Taser towards the back of Menard's legs and deployed the Taser again. Summerfield believed the cartridge deployment had some effect on Menard but stated Menard began struggling "harder" while continuing to resist Summerfield from taking him into custody. Summerfield was able to get Menard on to his stomach and gain better control of Menard. With the assistance of Frontroth, Summerfield was finally able to handcuff Menard and take him into custody. Summerfield was able to drag Menard out of the roadway and onto the shoulder.

Case note: Based on CAD records, Summerfield advised "fighting one" at 0244 hours. The fight lasted for approximately four minutes when Summerfield advised to "start meds".

At approximately 0250 hours, Haymore arrived on-scene in his fully marked DPS HP patrol car wearing his DPS HP Class-B uniform and assisted Summerfield by assisting Menard up from the ground. Menard continued to accuse Summerfield of violating his rights. Menard began kicking at Summerfield and Haymore striking Summerfield in his legs, at which point, Menard was taken

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back to the ground in an attempt to regain his compliance. Another attempt was made to escort Menard to a patrol vehicle for transport.

Menard again became combative and began kicking Summerfield and Haymore. During the struggle with Menard, Summerfield and Haymore along with Menard fell to the ground. Menard began kicking and struggling again, while continuing to prevent Summerfield from taking Menard into custody. Menard was helped to his feet once more and continued to resist being arrested while Summerfield and Haymore attempted to secure Menard in Haymore's patrol vehicle.

Haymore opened the door to his patrol car to speak with Menard and found Menard was unresponsive. Summerfield stated he had already been advised by Menard when he was fighting and resisting arrest, he was in need of an ambulance. The CAD noted a request for an ambulance was made by Summerfield during the struggle at 0248 hours.

Between 0250 hours and 0313 hours the ambulance arrived on-scene and medical personnel advised they were transporting Menard to the Benson Hospital to be evaluated. Haymore traveled with Menard in the ambulance due to Menard's previously observed combative behavior. Haymore stated, while in the ambulance, Menard became argumentative with medical personnel. Summerfield advised Hernandez arrived on scene after returning from a wide-load escort.

Case note: The ambulance arrival time was not reflected in the CAD history.

Hernandez followed behind the ambulance to the Benson Hospital. The vehicle Menard was driving in was removed from the scene by Mobile Maintenance Towing and stored in their lot, located at 98 North Center Way, Benson, Arizona. Summerfield proceeded to the Benson Hospital.

Once at the Benson Hospital, Menard remained handcuffed to the hospital bed by his left hand. Haymore was able to identify the suspect as Matthew Menard with a date of birth of [REDACTED]. [REDACTED] Menard identified himself as Matthew Menard to Summerfield prior to being transported to the hospital. Menard's identification was corroborated by his Arizona Driver's License.

Summerfield instructed Haymore and Hernandez to remain with Menard at the Benson Hospital as he departed to check on the DPS troopers at the other collision location. Summerfield remained at the collision scene which was located at milepost 306 on the Interstate 10 before returning to the Benson Hospital.

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Upon Summerfield's return to the Benson Hospital, Summerfield met with Haymore who had agreed a search warrant for a sample of Menard's blood should be applied for due to the impairment observed on Menard and because Menard refused any tests under the Implied Consent Affidavit. Haymore and Summerfield turned over supervision of Menard to Hernandez as they both went out to the parking lot of the Benson Hospital to draft a search warrant.

Hernandez stated Menard had been requesting a telephone and was yelling at the medical staff. Hernandez stated a female hospital worker got up from her chair to walk into Menard's hospital room, requested Menard to relax and calm down because there were other patients in the hospital. Hernandez stated Menard was displeased with the hospital worker's statements and attempted to get out of his hospital bed while handcuffed to it. Hernandez told Menard to calm down and Menard began yelling at Hernandez.

Hernandez was told by Doctor Ryan Howard, the hospital doctor; Menard was medically cleared and being released. Hernandez stated he notified Haymore via police radio the doctor had cleared Menard and he was "good to go." Hernandez stated Menard got out of his bed once more and was even more uncooperative. Menard began yelling and screaming.

Case note: Radio transmissions advising Menard was cleared for release were conducted on a "talk-around" frequency. "Talk-around" is not a recorded radio frequency.

Hernandez put his hand on Menard's chest and told him once more to calm down. Hernandez stated, Menard said something along the lines of "are we going to go? Are we going to go at it?" Menard became physically combative towards Hernandez by attempting to push his way out of the room.

Hernandez stated Menard leaned against him and he attempted to gain control of Menard's right hand since his left hand was handcuffed to the hospital bed. Menard reached over to Hernandez' gun belt and grabbed Hernandez' firearm from Hernandez' holster and pulled the trigger on the handgun. Hernandez stated the handgun was not completely out of the holster, but the handgun was removed from the holster just enough for Menard to get his finger onto the trigger and press it. Hernandez stated both he and Menard paused for a second to look at one another, both were surprised the gun went off, and immediately following; Hernandez began fighting to gain control of the firearm from Menard to place the handgun back in his holster. As Hernandez fought over the firearm with Menard he feared for his life, believing if Menard gained control of his gun he would have been shot and killed by Menard. Hernandez stated his priority was to ensure the safety of the individuals in the hospital.

Hernandez visually observed his magazine was only partially inserted into the handgun and an unfired round in his gun was facing vertically. Hernandez knew his gun was jammed. Hernandez being in fear for his life, worried about the well-being of others at the Benson Hospital, and the

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possibility of Menard gaining control of his firearm, Hernandez began punching Menard's hand several times with his right hand in efforts to cause Menard to release the handgun.

Hernandez stated he was not sure if he caused the firearm's magazine to be removed from the magazine well or if Menard had caused the magazine to be released.

Case note: A magazine is an ammunition storage and feeding device attached to DPS issued repeating firearms.

Hernandez stated Marotto entered the hospital room and began assisting Hernandez with gaining control of Hernandez' handgun from Menard. Marotto was waiting for Woolley, his Field Training Instructor in the waiting room at the time of the altercation between Hernandez and Menard. Marotto did not hear the gun shot. As Marotto was waiting, he observed smoke coming from behind the controlled access door. When the door came open, hospital staff began running out of the emergency room and told Marotto, a trooper needed help and "something was shot." Marotto ran into emergency room six where Hernandez was fighting over his handgun with Menard. When Marotto ran into the hospital room, he saw Menard and Hernandez fighting over Hernandez' handgun.

Marotto looked directly at Hernandez' handgun which was being fought over by Hernandez and Menard and saw the muzzle was pointed directly at him. In order for Marotto to break through the threshold of the doorway, he needed to cross in front of the muzzle of the handgun. Marotto got out of the way of the handgun muzzle, went around Hernandez' right side to attempt to try to control Menard's upper body.

As Hernandez struggled over the gun, he could feel Menard attempting to move the muzzle toward him and he believed this was an attempt to shoot him. Hernandez began trying to push the handgun's muzzle away from his person because he believed Menard was going to shoot and kill him.

Marotto attempted to use pain compliance techniques to gain control by pressing his thumb into Menard's mandibular angle (a pain compliance technique) and observed little to no change or reaction in Menard's behavior. Menard stated to Marotto, "I have asthma, are you really going to fucking choke me out right now?" Marotto gave commands to Menard which had no effect.

Due to Marotto realizing the pain compliance techniques he was using were inadequate and had no effect on Menard, Marotto decided to draw his department issued firearm from his holster. Marotto pressed his firearm firmly against Menard's left lateral rib cage and continued to verbally instruct Menard to let go of Hernandez' handgun.

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Marotto placed the barrel of his handgun directly against Menard because he knew Hernandez was also in the hospital room. Marotto did not want Hernandez to possibly get in the way of his firearm as he was attempting to shoot Menard. Hernandez was still giving Menard commands to drop his handgun and continued to struggle with Menard to regain possession. Hernandez' handgun had already discharged or shot at least one bullet and Marotto had heard Hernandez giving multiple commands to Menard for him to drop the weapon. Marotto heard Hernandez state, "he's got my gun." Marotto feared the handgun would go off again and potentially kill Hernandez, himself, or any of the occupants inside the Benson Hospital. Marotto believed the only way to stop Menard from pulling the trigger on Hernandez' handgun a second time, prevent harm to others, and protect human life; was to pull the trigger on his handgun to shoot Menard.

Marotto pulled the trigger on his handgun and the handgun failed to fire. Marotto had the muzzle of his handgun pressed so tightly against Menard, it caused his handgun to "go out of battery" resulting in the handgun not firing. Marotto pulled the handgun away from Menard's body and conducted a "tap, rack" in effort to fix the malfunction and prepare another round to fire. At which time, Marotto heard Hernandez yell, "holster, holster" at which time, Hernandez was able to free his handgun from Menard, clear it, and set it aside on what Hernandez described as either, a table or chair. Hernandez took his other set of handcuffs and cuffed Menard's right hand to the other side of the hospital bed.

Case note: "Out of battery" is a term used to describe the condition of a firearm in which the firing mechanism is not properly aligned to cause a normal firing position.

Case note: A "tap, rack" is a firearm malfunction correction technique ensuring the magazine is properly inserted, the action is then cycled to replace any defective cartridges.

Case note: Clearing a firearm is the action of removing all magazines or rounds from the weapon.

Marotto holstered his handgun and requested help on his police radio by stating "10-91". Hernandez took his handgun and holstered it without any further manipulation. Hernandez picked up the magazine which was previously inside his handgun and put the magazine in his pocket. Additional troopers ran into the hospital room to assist with ensuring Menard was secured. Marotto turned over control of Menard to the troopers who had just arrived and he walked out of the room to separate himself from the incident.

Case note: Response times from assisting troopers are not reflected in CAD history due to radio transmissions occurring on a non-recorded radio frequency.

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Marotto stated he used "10-91" because it means, "a trooper requests for immediate assistance and they need an urgent response...basically a dire situation and you need help now." Marotto and Hernandez were struggling with Menard over Hernandez' firearm and Marotto did not know if Hernandez, or any other hospital staff had been shot by Menard. Marotto did not know if Hernandez' handgun was operable or inoperable and feared another round would go off. Marotto requested immediate assistance to remove the handgun from Menard and prevent anyone inside the Benson Hospital from being shot.

Marotto had the opportunity to review the CAD history and saw approximately one minute had passed from when he entered the hospital room to the time he had holstered his handgun and advised shots had been fired. Marotto felt like quite a long time had passed. Marotto removed his magazine while his handgun was inside his holster once. Marotto wanted to ensure he was only missing one round and re-inserted the same magazine back into his handgun.

Hernandez was shocked and scared during his encounter with Menard. Hernandez feared for the safety and well-being of the hospital staff present at the time of the incident. Hernandez believed he was fighting for his life. Hernandez believed if he had not fought so hard to prevent Menard from taking possession of his firearm, he would have become a victim.

As Summerfield and Haymore were outside the hospital drafting the search warrant, Summerfield heard over the police radio a request for a "10-91." Summerfield heard shots fired over the police radio which was relayed by Marotto. As Summerfield and Haymore ran into the emergency room, Summerfield could smell gun powder and observed Menard "out of it again" just lying on the hospital bed. Menard was no longer struggling with Hernandez and Marotto. Summerfield looked at Menard and did not observe any blood. Summerfield was unaware of where any bullets shot had gone.

Summerfield advised over the police radio, no one was shot but Menard had attempted to get Hernandez' handgun when Hernandez' handgun went off. Summerfield instructed all the individuals present inside the Benson Hospital to leave things as they were, and he was going to go outside to make notifications through his chain of command regarding the shooting.

Summerfield returned to the emergency room where he was advised Menard's vitals had been checked three times and he was cleared to be discharged from the hospital. Haymore retrieved his patrol vehicle and Menard was once again placed in the back seat and transported to the Benson Police Department.

Summerfield initiated incident command and awaited the arrival of DPS HP Captain Dean Chase, #5664 and additional resources.

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Investigative Actions

On Sunday, June 10, 2018 at the conclusion of the SIU briefing, Ortiz conducted a criminal history check of Menard and was able to determine Menard was a convicted felon. The felony conviction stemmed from previous charges in California and relayed the information to Mason.

Ortiz authored a search warrant for the Benson Hospital and Menard's vehicle which was located at Mobile Maintenance and Towing LLC. Search warrant #2018-006072 was granted by the Honorable Tracy Nadzieja of the Maricopa County Superior Court.

(Supportive Documents V.2)

At 0958 hours, Ortiz and I arrived at the Highway Patrol Benson office located at 690 North Adams, Benson, Arizona 85602, to conduct interviews with Marotto, Hernandez, Woolley, Haymore and Summerfield. Ortiz and I also conducted ammunition counts of the weapons involved.

Trooper Joshua Marotto, #10462

At approximately 1003 hours I took four-way photographs of Marotto. Marotto was photographed in the same uniform and with the same equipment on his person at the time of the incident.

(Photographs)

Marotto carried his DPS issued primary service weapon, a "Fabrique Nationale d' Armes de Guerre (FNS)" .40 caliber pistol in a DPS issued side holster at the time of the incident. The following ammunition counts were recorded, photographed and labeled as evidence (if applicable).

- Item #RJO2- FNH USA LLC .40 Caliber Pistol with serial number GKU0121801. A Streamlight® TLR-1 HL Flashlight, serial #1137370115 was mounted on the bottom rail. The .40 caliber pistol was loaded with one magazine labeled "10462 1" containing 13 rounds and one chambered round. Marotto carried two additional fully-loaded magazines on his duty belt labeled "10462 2" and "10462 3" each loaded with 14 rounds. Marotto's magazine baseplates were each labeled with his badge number and numbers 1-3. Marotto's firearm and magazines contained a total of 42 .40 caliber rounds. The magazines and ammunition were collected and labeled as Item #RJO1.

(Photographs)

Case note: Marotto removed his magazine while the handgun was in the holster once to ensure he was only missing one round and re-inserted the same magazine into the handgun. The missing unfired round was recovered from the hospital room floor.

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Trooper Allen Hernandez, #10307

At approximately 1005 hours, I took four-way photographs of Hernandez. Hernandez was photographed in the same uniform and with the same equipment on his person at the time of the incident. Hernandez asked me if I wanted to include a photograph of his holster. Hernandez informed me a round had been discharged from his firearm, through his holster, resulting in a damaged holster.

(Photographs)

Hernandez carried his DPS issued primary service weapon, a FNS 9-milimeter pistol in a DPS issued side holster at the time of the incident. The following ammunition counts were recorded, photographed and labeled as evidence (if applicable).

- Item #RJO4- FNH USA LLC 9-Milimeter Pistol with serial number GKU0139346. A Streamlight® TLR-1 HL Flashlight, serial #3298980217 was mounted on the bottom rail. The 9-milimeter pistol was found unloaded and no magazine in the magazine well. Hernandez had one magazine in his pocket loaded with 16 rounds, this magazine was labeled by Hernandez with one yellow dot on the baseplate. Hernandez carried two additional fully-loaded magazines on his duty belt labeled with two yellow dots on one and three yellow dots on their respective baseplates. Hernandez' magazines contained a total of 50 9-milimeter rounds. The magazines and ammunitions were collected and labeled as Item #RJO1. Hernandez' holster was also taken as evidence and labeled as Item #RJO5.
- Item #RO7 was the spent shell casing recovered from patient room six between the gurney's frame and mattress.

(Photographs)

Case note: The missing round was identified as the fired round and recovered from the hospital wall.

Case note: It was discovered, the fired round had been discharged while the firearm was partially holstered. The fired round traveled out of the bottom of the holster causing damage to a plastic piece, which was photographed in emergency room six but not collected due to not being able to identify what it was at the time.

Case note: Hernandez' gun was manipulated within patient room six. An unspent 9-milimeter round was located on the counter next to the sink. The item was labeled evidence item #RO3, accounting for a total of 52 rounds.

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Sergeant Brian Summerfield, #5704

At approximately 1352 hours I took four-way photographs of Summerfield. Summerfield was photographed in the same uniform and with the same equipment on his person at the time of the incident. Summerfield's DPS issued Taser was photographed. The damage noted was described by Summerfield as having occurred from Menard knocking the Taser away from Summerfield and scraping against the pavement.

Summerfield identified the injuries he had sustained during his altercation with Menard. The injuries, that were photographed are described as follows:

- Right hand palm abrasion
- Left elbow abrasion
- Blood on Summerfield's uniform shirt
- Blood on Summerfield's left pant leg
- Left fingers and knuckle abrasions
- Left knee abrasion
- Right knee abrasion

Additional photographs can be found under **(Photographs)**.

Summerfield's Taser cartridges were collected as evidence and labeled as Item #RJO6.

All items of evidence collected were turned over to Olshaskie and later submitted to the DPS Central Regional Crime Laboratory (CRCL), located as 2323 N. 22nd Avenue in Phoenix, for storage.

(Supportive Documents V.4)

June 10, 2018

At approximately 1123 hours, Ortiz and I conducted a recorded interview with Marotto. Also present during the interview was Marotto's attorney, Michael Pang. The recorded interview was later transposed onto a compact disc (CD) and later submitted to the DPS CRCL as evidence item MV1. The interview was concluded at approximately 1145 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events."

(Interviews IV.1)

(Audio- DPS Trooper Joshua Marotto Interview)

At approximately 1154 hours, Ortiz and I conducted a recorded interview with Hernandez. Also present during the interview was Hernandez' attorney, Michael Pang. The interview was later

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transposed onto a CD and later submitted to the DPS CRCL as evidence item MV2. The interview was concluded at approximately 1219 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events."

(Interviews IV.2)

(Audio- DPS Trooper Allen Hernandez Interview)

At approximately 1251 hours, Ortiz and I conducted a recorded interview with Woolley. The interview was later transposed onto a CD and later submitted to the DPS CRCL as evidence item MV3. The interview was concluded at approximately 1305 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events."

(Interviews IV.3)

(Audio- DPS Trooper Bobbie Woolley Interview)

At approximately 1309 hours, Ortiz and I conducted a recorded interview with Haymore. The interview was later transposed onto a CD and later submitted to the DPS CRCL as evidence item MV4. The interview was concluded at approximately 1320 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events."

(Interviews IV.4)

(Audio- DPS Trooper Brent Haymore Interview)

At approximately 1322 hours, Ortiz and I conducted a recorded interview Summerfield. The interview was later transposed onto a CD and later submitted to the DPS CRCL as evidence item MV5. The interview was concluded at approximately 1353 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events."

(Interviews IV.5)

(Audio- DPS Sergeant Brian Summerfield Interview)

Deskins and Boothe interviewed several witnesses regarding the incident and interviewed. During an interview with Menard, Menard was read his Miranda Rights and agreed to answer questions. Menard was test driving his car when it pulled to the left and he ran off the road. Menard walked to the Quick Pic located at 62 North Oak, Benson, Arizona 85602 to request assistance. When Menard returned, he found a tow truck on scene as well as a Highway Patrol Trooper. Menard was asked to perform field sobriety tests which he felt he passed. Menard stated the trooper attempted to arrest him and he resisted because he felt his rights were being violated.

While at the hospital Menard admitted to pulling the bed towards the door at which time he stated the officer "tackled" him onto the bed. Menard attempted to get the officer off of him when the handgun went off. Menard stated he did not know if he caused the handgun to fire as it happened during the struggle. Menard described hugging the officer, grabbing his handgun belt in an attempt to free himself from the officer. Menard would admit to owning a .25 caliber pistol recovered from the vehicle. Menard admitted to owning several other firearms which he had at

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his residence. When asked about using the .25 caliber, Menard stated if he wanted to shoot someone he would have used his .40 caliber. Due to the statements and admissions made by Menard, Deskins initiated an investigation into weapons misconduct in regard to the weapons owned or possessed by Menard. Refer to Deskins' supplemental report for pertinent statements made by Menard. Deskins' investigation was conducted under AZDPS Departmental Report Number AZ1800240560.

(Supportive Documents V.5)

(Interviews IV.6)

June 11, 2018

On Monday, June 11, 2018, I was contacted by Deskins who executed a search warrant at Menard's residence due to statements made by Menard regarding weapons owned and possessed by him. Deskins was able to determine Menard was a prohibited possessor and had not had his rights restored from a previous felony conviction from the State of California, Case Number FBA007265 **Supportive Document V.6**. Deskins recovered a total of 7 firearms from Menard's residence located at [REDACTED]

The firearms recovered from Menard's residence were described as follows:

1. Smith and Wesson Model SW40VE Handgun (Unknown Serial Number)
2. Remington Arms Pump Action 12-Gauge Shotgun (U210776)
3. Winchester .22 Caliber Rifle (Unknown Serial Number)
4. Stevens Arms Co. Double Barrel Shotgun (Unknown Serial Number)
5. Remington .243 Caliber Rifle (M721135889)
6. Savage 12-Gauge Shotgun (Unknown Serial Number)
7. Unknown Make .22 Caliber Rifle (27165387)

Refer to **Supportive Document V.5**, AZ1800240560 for additional information.

June 13, 2018

On Wednesday, June 13, 2018, Ortiz returned search warrant #SW2018-006072 to the Maricopa County Superior Court (MCSC). The return was signed by MCSC Judge Melissa Zabor.
(See Supportive Documents V.2 for search warrant return)

June 13, 2018

While reviewing CAD logs for the incident, I discovered a call had been made by Frontroth to the DPS advising he had found a gun in the glove box of the vehicle he towed, the vehicle previously driven by Menard. The call log also states, "CJ mentioned that the subject had threatened to kill 920 and him." I called Frontroth to schedule an interview with him so he could clarify his statements.

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Case note: 920 is Summerfield's radio identifier.

June 14, 2018

On Thursday, June 14, 2018, at approximately 0903 hours, Ortiz and I interviewed Frontroth at the Benson Airport located at 2200 West Aviation Drive, Benson, Arizona 85602 . The interview was audio recorded, transposed onto a CD, and later submitted to the DPS CRCL as evidence item MV6. The interview was concluded at approximately 0919 hours. The pertinent details of the interview are contained in this report, under the section "Chronological Sequence of Events." **(Interviews IV.7)**

(Audio- Christopher Frontroth Interview)

June 25, 2018

On Monday, June 25, 2018, I received the Firearms Trace Report from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives. The firearms trace was conducted on evidence item #RO8, an EXCAM GT27 .25 caliber pistol recovered in the search warrant obtained for Menard's vehicle. The firearms trace results indicated the weapon was initially purchased by Remigio Ballesteros on October 19, 1988 in Tucson, Arizona. **(Supportive Documents V.7)**

June 26, 2018

On Tuesday, June 26, 2018, I sent a request for a firearms examination to the DPS CRCL Supervising Forensic Scientist Todd Whittard, #4824. I requested Whittard to conduct a firearms function test on the two DPS troopers service pistols, evidence items #RJO2 and RJO4. I requested Whittard to also conduct a firearms function test on a pistol recovered from Menard's vehicle, evidence item #RO8.

(Supportive Documents V.8)

June 27, 2018

On Wednesday, June 27, 2018, I received the DPS computer-aided dispatch logs and OPCOMM recordings for the incident.

(Audio-Dispatch recordings)

On Wednesday, June 27, 2018 I received the DPS CRCL Report for Menard's blood specimen collected from Menard on June 10, 2018. The lab results revealed Menard's blood sample contained 0.049 +/- 0.003 grams of ethanol per 100 mL of blood.

(Supportive Documents V.10)

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July 17, 2018

On July 17, 2018 I sent a request for a firearms examination to the DPS CRCL Supervising Forensic Scientist Todd Whittard, #4824. I requested Whittard to conduct a firearms function test to be conducted on the firearms seized from case investigation AZ1800240560, **(Supportive Document V.5)**
(Supportive Document V.11)

The result of the firearms function tests have not been received. They will be attached at submitted upon conclusion.

September 17, 2018

On Monday, September 17, 2018 I received test fire results from items #RJO2, #RJO4 and #RO8. Details regarding the firearms function testing can be found in the report created by DPS CRCL Forensic Scientist Evan Thompson, #7134.
(Supportive Document V.12)

September 18, 2018

On Tuesday, September 18, 2018, Olshaskie and I attempted to contact the victims regarding the incident to conduct follow-up interviews to clarify some questions pertaining to the investigation.

Below are relevant statements from their recorded interviews:

Welch was interviewed at 1205 hours and recalled the shooting which had occurred at approximately 0408 hours on Sunday, June 10, 2018, inside the Benson Hospital's Emergency Room. Welch was working at the time of the incident as a hospital laboratory technician and was called to the emergency room to conduct a blood draw on the patient identified as Matthew Menard. Welch identified the patient as a suspect brought into the hospital by police. As Welch entered the emergency room, she observed Menard acting very disgruntled and was yelling in a manner which she could not interpret. Welch did not enter the patient room which she identified as room six, which Menard was occupying. Welch decided she would not enter room six nor would she conduct a blood draw on Menard due to his behavior. Welch requested hospital staff attempt to calm Menard down prior to her attempting a blood draw.

Welch waited at the nurse's station which she described as being six to seven feet away from room six, the room Menard was occupying. Welch observed Menard "jerk up" and try to leave his hospital room by dragging the hospital bed towards the door, as he was handcuffed to the gurney. Welch saw who she believed were doctors and troopers exit Menard's room after attempting to treat Menard. Menard was having mood swings, yelled, and threatened "legal jargon,"

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but did not make any physical threats towards doctors, nurses or police according to Welch.

Welch saw Hernandez run into room six in an attempt to calm Menard down and instructed him to get back into his bed when she saw Menard reach up and grab Hernandez' handgun. Welch did not see Hernandez put his hands-on Menard right away, but she knew Menard would not cooperate with Hernandez' instructions based on her observations of Menard's behavior. Hernandez physically picked up Menard and put him back into his bed. Hernandez was trying to physically hold Menard down with his arms. Menard reached up with his free hand and put his hand on Hernandez' handgun. Welch stated the shot was fired immediately after Menard had put his hand on Hernandez' handgun. Welch did not believe Menard was able to remove Hernandez' handgun from the holster but heard the shot go off.

Welch believed her brain took about 5 seconds to process a gun had gone off inside the hospital. She observed smoke coming from the wall the bullet had penetrated and saw hospital staff run out into the ambulance bay where she closely followed behind. Welch believed if someone would have been in the line of fire, (the bullet) would have "done a lot" (of damage). Welch knew Qashu was in the patient room adjacent to room six where the shot was fired from and believed injuries would have been severe if Qashu had been hit by the bullet.

Welch was "super scared" when she heard the gun shot. Welch recollected how afraid she was and believed she knew she could possibly provide the exact moment the shot was fired because her "FitBit" recorded a heart rate of "like 211" (beats per minute). Welch was afraid she could have been killed by Menard had he been successful in gaining further control of Hernandez' handgun. Welch believed many patrons inside the hospital would have been shot if he began shooting at random.

Welch clarified she did not want to attempt to draw Menard's blood due to his behavior, Menard was uncooperative, and Welch further feared being stuck by the needle if she attempted to draw Menard's blood.

Welch's follow-up interview was concluded at 1222 hours.

At 1253 hours, a follow-up interview was conducted with Trudy Marks, an Emergency Medical Technician employed by Health Care Innovations (HCI). Marks recounted the incident which occurred on Sunday, June 10, 2018, and described her involvement. Marks was dispatched to the initial report of a collision on Interstate 10 described near the "Quick Pic and Mescal." While en-route, the ambulance Marks was on was canceled and she returned to quarters. Another ambulance was re-dispatched to the scene for "something officer involved" but Marks did not know the specific information regarding the incident or the time of the incident.

At some point, (Marks did not know the specific time) she walked from her station located

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adjacent to the Benson Hospital Emergency Room where she had gone to speak to “Connie” (Constance Proulx) a nurse at the Benson Hospital about an unrelated medical question she had regarding a previous unrelated incident. Marks stood behind the nurse’s station in the emergency room, behind the counter and the doctor’s desk. Marks saw a trooper standing outside hospital room six and believed someone was in custody (Menard) but could not see their face and did not know anything about Menard who was in custody. Marks heard who she believed was Menard in room six becoming loud and unruly.

Marks overhead who she believed was a doctor who exited room six walk passed her and stated to cancel the x-ray because Menard’s arm seemed fine. Marks saw the Menard’s arms come up and the hospital bed move. Marks saw the trooper at the door and Menard stood up with his arm handcuffed to the bed, lift up the bed, and slam the bed to the floor. Marks saw the trooper move forward to attempt to subdue Menard who had his legs between the troopers left leg. Marks saw the trooper on top of Menard when a struggle ensued, and she heard a gunshot.

Marks stated there was something attached to the trooper’s left hip which was never removed from its holster, based on the investigation and the photographs of Hernandez, it was determined the object on Hernandez’ left hip was his department issued taser. Prior to the shot going off, Marks saw Qashu exit the room adjacent from room six and state “that almost hit me.” Marks exited the emergency room with the others and called 911.

Marks was within 15 feet from patient room six when the struggle ensued, and the gunshot went off. During the encounter, Marks could not clearly interpret what Menard was saying and only described him as loud and unruly. Marks did not recall any statements made by the trooper to Menard.

After the shot was fired, Marks took a bit to register what happened. Marks yelled, “gunshot!” and exited through the exit doors of the emergency room because she wanted to get away from any potential gun fire. The gunshot did not initially scare Marks, but she did not want to remain inside the emergency room to be shot either. Marks believed she would have been shot if she stayed in the emergency room. Marks believed if a change in trajectory would have occurred had or the round was shot at a different angle, she could have been shot. Marks chose to leave the emergency room because she was afraid potential injury or death if any additional shots were fired.

Marks did not know what Menard was attempting to do but if he would have been successful in gaining the trooper’s gun, Marks believed he could have fired more shots but again, did not want to remain in the emergency room in case the event had escalated.

After the incident, Marks saw a bullet hole in the wall which separated the two hospital rooms and the door is used to access the lobby.

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Marks follow-up interview was concluded at 1312 hours.

Additional relevant statements from other witnesses and victims will be included as they are made available.

Conclusion

Based on the interviews conducted with the victims pertaining to the investigation, the evidence collected, the firearm located in Menard's vehicle, and the firearms located at Menard's residence, I am requesting the charges listed in the investigation be filed against Menard. Please see the findings page for further detail.

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The investigation revealed the following concerning the actions of Matthew Menard:

1. ARS § 13-2508A1B *Resisting Arrest (one count)*:

A: Menard intentionally resisted arrest in violation of ARS § 13-2508A1B by pulling away from Sergeant Summerfield and kicking in a physical attempt to avoid apprehension.

2. ARS § 13-3102A4M *Attempted Prohibited Possessor (two counts)*

A: Menard knowingly attempted to possess a deadly weapon. Menard attempted to gain possession of Summerfield's handgun by attempting to remove the handgun from Summerfield's holster. Summerfield struggled with Menard in attempts to prevent Menard from gaining access to the handgun.

B: Menard knowingly possessed a deadly weapon. Menard gained possession of Trooper Hernandez's handgun when attempting to remove the handgun from Hernandez's holster. Hernandez struggled with Menard in an attempt to prevent him from taking control of the handgun, but during the struggle, a bullet was fired.

3. ARS § 13-1204A8 *Aggravated Assault on Law Enforcement (two counts)*

A: Menard assaulted Trooper Hernandez who was dressed in a DPS HP Class-B uniform comprised of a Silver-Tan Collared long-sleeve button style shirt, with silver-tan uniform style slacks, a gold-colored breast seven-point style badge over the left chest, and a high-gloss leather gun belt with accessories. Menard physically struggled with Hernandez to take control of his gun and attempted to point the muzzle at Hernandez.

B: Menard assaulted Summerfield as he attempted to take him into custody for Driving Under the Influence. Menard was physically combative by kicking and pushing Summerfield away from him as Summerfield attempted to place Menard in handcuffs. As the struggle ensued Menard attempted to gain access to Summerfield's gun.

4. ARS § 13-1105A1D *Attempted Murder (three counts)*

A: Menard acted with premeditation to murder by stating he would kill Summerfield if he got his gun.

B: Menard acted with premeditation to murder by stating he would kill Frontroth if he

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got Summerfield's gun.

C: Menard acted with premeditation to murder by gaining control of Hernandez' gun by placing his hand on the handgun, pulling the trigger, and forcibly attempting to point the muzzle towards Hernandez.

5. ARS § 13-1201 *Endangerment (ten counts)*

A: Menard recklessly endangered the lives of victims within the Benson Hospital by firing one round during the struggle with Hernandez while attempting to gain possession of Hernandez's handgun. The victims stated they were in fear for their lives and the lives of the other patients inside the Benson Hospital. Victims believed serious injury and or death would have resulted if Menard would have been successful in gaining possession of Hernandez' gun and discharging additional rounds.

6. ARS § 13-3102 *Misconduct Involving Weapons (eight counts)*

A: Menard knowingly possessed a firearm while a prohibited possessor. Menard claimed ownership of the firearm recovered from his vehicle. State of California Case Number FBA007265 (Supportive Document V.6).

B: Menard knowingly possessed a black and gray Smith and Wesson .40 caliber handgun while a prohibited possessor.

C: Menard knowingly possessed a black and brown Remington Arms pump action 12-gauge shotgun while a prohibited possessor.

D: Menard knowingly possessed a Winchester .22 caliber rifle while a prohibited possessor.

E: Menard knowingly possessed a black Stevens Arms Co. double barrel shotgun while a prohibited possessor.

Case note: The double barrel shotgun appeared to have been illegally modified. The barrel was sawed off, reducing the overall barrel length.

F: Menard knowingly possessed a black Remington Arms .243 caliber rifle while a prohibited possessor.

G: Menard knowingly possessed a black Savage 12-gauge shotgun while a prohibited possessor.

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H: Menard knowingly possessed a black .22 caliber rifle while a prohibited possessor.

The investigation revealed the following concerning the actions of Sergeant Brian Summerfield and Troopers Joshua Marotto and Allen Hernandez:

1. To affect the arrest of Menard to whom probable cause existed for having committed the violation of ARS §28-1381, Summerfield deemed it necessary to use physical and less lethal force to take Menard into custody pursuant to ARS §13-409.
 - a. Force was immediately necessary to affect the arrest and detection of Menard, and
 - b. Menard was instructed several times to stop resisting, and
 - c. The arrest and detention were lawful.
2. ARS §13-410C Justification: *Use of Deadly Force in Law Enforcement*
 - a. Hernandez believed physical force was necessary pursuant to ARS §13-409, and;
 - I. Force was immediately necessary to affect the arrest and detection of Menard, and
 - II. Menard was instructed several times to drop the gun, and
 - III. The arrest and detention were lawful.
 - b. To defend himself and other's from Menard's past conduct, perceived imminent use of deadly physical force, having control of Hernandez' firearm, having previously fired one round, and having the means to endanger the lives of several individuals within the Benson Hospital with a substantial risk of imminent death, Marotto, although unsuccessful, decided to use deadly force.
 - i. Menard previously committed and was in the act of committing *Attempted Murder* in violation of ARS § 13-1105A1, a class 2 felony.

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INTERVIEW WITH CHRISTOPHER JON FRONTROTH

Q=Det. Michael Valdez

Q1=Det. Rick Ortiz

A=Christopher Jon Frontroth

Q: All right, today's date is Thursday, June 14. The time is 0903 hours. I'm Detective Michael Valdez, Badge Number 7625, with the Arizona Department of Public Safety, Special Investigations Unit. Currently sitting with me is Detective...

Q1: (Rick Ortiz) 6760, also with the Special Investigations Unit.

Q: This is in reference to AZDPS Report Number AZ1800238888 an officer-involved shooting, which occurred at the Benson Hospital, located at 450 South Ocotillo Avenue. This occurred on June 10, 2018 at approximately 0408 to 0409 hours in Emergency Room 6. Uh, currently we are interviewing Christopher Frontroth. Is that correct, sir?

A: Yes.

Q: And for the record can you say and spell your name, please?

A: Uh, Christopher Jon Frontroth, C-H-R-I-S-T-O-P-H-E-R, middle name J-O-H-N - J-O-N, last name Frontroth F-R-O-N-T-R-O-T-H.

Q: Okay, it's my understanding that you were present at the location, where the initial, uh, scene occurred on Interstate 10 and Milepost 296 is it?

A: 297.

Q: 297? Okay. And you were the reporting party? Did you - you called 911 to report this?

A: Yes.

Q: Okay, and what did you see?

46 A: Uh, it's what I heard.
47
48 Q: Okay, what did you hear?
49
50 A: Uh, the screechin' of the tires and then the impact, and then I could see the
51 headlights in the ditch from my office.
52
53 Q: Okay, and you called 911 to report that?
54
55 A: Yes.
56
57 Q: And did you go to the scene?
58
59 A: Yes.
60
61 Q: Um, what happened when you arrived on-scene?
62
63 A: Uh, there was a passenger that was in the vehicle, and he was with the car. Uh,
64 he said that nobody was hurt. I told him that I had called medical and, uh, law
65 enforcement. And, uh, the other gentleman walked up from behind me and
66 told me that his car had just pulled to the left. And I recognized him 'cause I
67 towed the car two days earlier.
68
69 Q: And do you remember that person's name?
70
71 A: Uh, Mr. (Menard).
72
73 Q: And do you know if he was the driver or the passenger?
74
75 A: I do not know if he was driving or the passenger at that time.
76
77 Q: Okay, so what happened after he came up to you?
78
79 A: Uh, that's when the Sergeant pulled up and they went over to the other side of
80 the road and they were talking. And then he administered the field sobriety
81 test. 'Cause you could smell the alcohol on him.
82
83 Q: You could smell alcohol on the person also?
84
85 A: Yes, on Mr. (Menard).
86
87 Q: And I - I know you're not, uh, you're no in law enforcement, but from the
88 field sobriety test did you observe any of those?
89
90 A: Uh, yes, he was havin' him walk the white line and he was not doin' very

91 well.

92

93 Q: He wasn't doin' very well? Okay.

94

95 A: So I had called my Dispatch to let her know that I was possibly gonna get this
96 tow, 'cause we have a contract with you.

97

98 Q: Okay. So what happened after the field sobriety tests?

99

100 A: Uh, he was going to, uh, attempt to put him in handcuffs and it didn't go well.

101

102 Q: It didn't go well? What do you mean by that?

103

104 A: Uh, I'd hung up my phone and, uh, from the time I hang up my phone to
105 where he was going to place him under arrest, when I turned back around they
106 were going down to the ground. And I saw the Officer's handcuffs hit the
107 road. So I jumped out of my truck and on the way to them I picked up the
108 handcuffs, and, uh, helped the Officer hold him down, 'cause he was bein'
109 very combative, yelling profane language. He told the Officer if he got his
110 gun, he was gonna kill us and he attempted to get the Officer's gun. He told
111 him to stop resisting or he was going to be tased. He told the Officer, "Go
112 ahead it's not going to affect me." And then he went for the Officer's gun
113 again and that's when he tased him the first time. And it seemed to have no
114 affect. He acted like a bucking bronco and it was pretty much everything the
115 two of us had to keep him on the ground. He kept yelling profanity,
116 threatening us.

117

118 Q: What kind of profanities was he yelling?

119

120 A: Uh, a lot of cuss words. "I'm gonna get you guys, you're, uh, violating my
121 civil rights." And then he went for the Officer's gun a second time, and that's
122 when he got tased a second time. And that gave enough for us to get him onto
123 his stomach, and I was able to cuff his left arm. And with his right hand he
124 kept holdin' the handcuffs, so I was like having to peel his fingers from there,
125 while the Officer was holdin' him down, and then I was finally able to cuff his
126 right hand.

127

128 Q: So you put both hand - hands in handcuffs for the Officer?

129

130 A: Yes.

131

132 Q: And then take me back to when he said he was - if he got the gun he was
133 going to kill us - you said, "He was gonna kill us." Um, is that referring to the
134 Officer on-scene and you?

135

136 A: Yes.
137
138 Q: What was goin' through your mind at that time?
139
140 A: Just to keep him from getting the gun.
141
142 Q: If he got the gun, what do you believe would have happened?
143
144 A: Oh I believe he would have shot us. No doubt.
145
146 Q: You felt as if your life was in danger?
147
148 A: Yes, both of ours.
149
150 Q: So you feared for the Officer's life as well?
151
152 A: Yes. It's somebody that I work with frequently, so I did everything I could.
153
154 Q: You're talkin' about the Officer?
155
156 A: Yes.
157
158 Q: So after you put, uh, you were able to put him in handcuffs, what happened
159 after that?
160
161 A: Um, the Officer dragged him to the shoulder of the road because we were in
162 the middle of the road. And that's when another DPS Officer showed up.
163
164 Q: Was there any traffic at that time?
165
166 A: There was one vehicle that had stopped because we were in the road at the
167 time, but as soon as that - we were out of the road that vehicle did drive away.
168
169 Q: Okay. So the other Trooper arrived on-scene?
170
171 A: Shortly after he pulled him to the side of the road.
172
173 Q: Okay, what happened after that?
174
175 A: Um, he told me to hook the car - Officer (Summerfield).
176
177 Q: Okay.
178
179 A: Yeah, he had him, um, on the side of the road, and he was, uh, I believe
180 kneeling on the suspect. And then he pointed at me and told me, "Hook that

181 car." His buddy never really did anything, he just kinda stood there on the side
182 of the road, which is - I was happy about too.

183
184 Q: Did he s- - did he say anything to him?

185
186 A: He - he kept tellin' him, "Stop resisting." You know, he was tryin' to tell his
187 buddy, "You know, don't."

188
189 Q: So after you towed the car do you see or hear anything?

190
191 A: Uh, no, they had, uh, an ambulance had showed up and they put him in an
192 ambulance while I was hooking the car.

193
194 Q: And that's all you saw?

195
196 A: N- - that was the end of that part, yes. And then we had an accident 305 that
197 Officer (Summerfield) was also on, when he come up to me. And then I had to
198 go to that accident, 'cause I had another driver there, and I saw (Summerfield)
199 again there, and he thanked me again. And then when we got back to the yard,
200 I had to process that vehicle and that's when I found the gun in the glovebox.
201 So that was about 5:30 in the morning I think. And then I called you guys
202 right away.

203
204 Q: Have you ever had any other interactions with, uh, with (Menard)?

205
206 A: Uh, yes, I towed his car two days prior to that.

207
208 Q: Do you remember what that was for?

209
210 A: Uh, the car had overheated.

211
212 Q: And...

213
214 A: He was at mile marker 285 heading towards Benson.

215
216 Q: Okay.

217
218 A: His wife was driving the car when it overheated.

219
220 Q: And what were, uh, how was that interaction?

221
222 A: He seemed fine.

223
224 Q: Wa- was it the same kind - no - no, uh, difference in demeanor from that
225 contact with him to this one, or...

226

227 A: It was like a different person.

228

229 Q: A different person?

230

231 A: I didn't even recognize that guy. Hm. It just, you know, just a normal tow that
232 day.

233

234 Q: Then going back to the, uh, the fight with Sergeant (Summerfield) and this -
235 and the suspect, did you - at the end of it did you observe any injuries on
236 Sergeant (Summerfield)?

237

238 A: Yes.

239

240 Q: What did, uh, what did you see?

241

242 A: Uh, his - I - I saw here he had blood on his arm.

243

244 Q: On his left elbow?

245

246 A: Yeah.

247

248 Q: Or left...

249

250 A: I did...

251

252 Q: ...forearm?

253

254 A: ...see that, yeah. Right here, like, he had - when he was - they were wrestling
255 he hit - maybe hit the ground on the - the road.

256

257 Q: Was that all you were able to see?

258

259 A: That's all I remember seeing, yes.

260

261 Q: Okay, and...

262

263 A: Was his arm was all bloody here.

264

265 Q: Okay, and were you injured during this?

266

267 A: Um, not really.

268

269 Q: Not really?

270

271 A: No. Just, uh, I was, you know, we were on the - the ground, so I just had some
272 scrapes on my knees from - but I had pants on, so I mean it's not really, uh,
273 here, here and a little bit here.

274
275 Q: Okay.

276
277 A: And my back's been a little sore, but...

278
279 Q: Did you get checked out by a doctor at all?

280
281 A: No. I'm just figuring maybe from all the twisting and holding him down. But
282 he was, uh, definitely hands flailing, and we couldn't hold him down.

283
284 Q: Um, do you got any questions?

285
286 Q1: Um, was Sergeant (Summerfield) giving any commands during the fight to
287 the, uh, Mr. (Menard)?

288
289 A: He told him to stop resisting, or he was gonna get tased.

290
291 Q: Was - were his commands effective?

292
293 A: No, this guy was not paying any attention to what he was having to say. All he
294 was screaming was that he had violated his civil rights, and that if he got his
295 gun he was going to shoot him.

296
297 Q1: Is...

298
299 A: "If I get your gun, you guys are dead."

300
301 Q1: All right.

302
303 A: Um, and he was able to get his taser out, and he told him, again, "Stop
304 resisting, or you'll get tased." And he went for his gun again and that's when
305 he tased him. Both times he tased him is when he went for his gun.

306
307 Q: And is there anything you believe we didn't, uh, didn't cover or didn't ask?
308 Anything you'd like to add?

309
310 A: I don't think so.

311
312 Q1: And...

313
314 A: Other than the fact that the windshield I told you about.

315

316 Q: Okay.
317
318 A: That was at his house fighting with his wife, and I believe that's probably
319 where it all started.
320
321 Q: Okay. And then, uh, do you - on your - is your driver's license current, your,
322 uh, address on your driver's license?
323
324 A: Yes.
325
326 Q: Mailing ad- address?
327
328 A: Yes.
329
330 Q: What is your mailing address for the record?
331
332 A: [REDACTED]
333
334 Q: And a good phone number for you?
335
336 A: Uh, [REDACTED]
337
338 Q: Okay. And, uh, you don't have any questions for us?
339
340 A: Uh, I don't think so.
341
342 Q: Okay.
343
344 Q1: Were you served victim's rights, uh, the other day?
345
346 A: Uh, no, I was told that they were gonna get sent to me in the mail.
347
348 Q1: Okay, uh, so they explained that - all that to you or no?
349
350 A: Uh, there was a detective calling me, asking me if I wanted to be a victim in
351 the case, 'cause I was there and I said, "Yeah, fine."
352
353 Q1: Okay, perfect.
354
355 A: Whatever I can do to help.
356
357 Q: We'll make sure, uh, that's why I asked you for your address. We'll make
358 sure those get to you.
359
360 A: Okay.

361
362 Q: Um, and just r- - just read the form, it basically explains your rights as a
363 victim in this case. Um, it's pretty self-explanatory.
364
365 A: Yeah. The only thing that bothered me was that, uh, he only lives four blocks
366 from there and I was like, hm, he threatened to kill me.
367
368 Q: Well, if at any time, you are worried about the situation, you know, don't
369 hesitate...
370
371 A: Uh-huh.
372
373 Q: ...to call 911.
374
375 A: Okay. Well right now I don't think he's out, so...
376
377 Q: Right. All right, if there's nothin' else, we're gonna go ahead and conclude the
378 interview at 0919 hours.
379
380

381 The transcript has been reviewed with the audio recording submitted and it is an accurate
382 transcription.

383 Signed _____

INTERVIEW WITH MATTHEW MENARD

Q=Det. Deskins

Q1=Det. Boothe

A=Matthew Menard

Q: Yeah, that chair right there in the corner. Wouldn't mind having a seat there for me. Okay I met you earlier. Um, my name's Detective (Travis) Deskins. This is Detective (Seth) Boothe. We're with the Arizona Department of Public Safety. And your first name is Matthew? Can you spell that for me?

A: M-A-T-T-H-E-W.

Q: M-A-T-G?

A: T-T.

Q: Oh.

A: H-E-W.

Q: Thank you and can you spell your last name?

A: M-E-N-A-R-D.

Q: What's your date of birth?

A: 

Q: Okay do you have a phone number?

A: I did but it's probably still sitting on the side of the road where it got thrown to the ground.

Q: Okay if they found it I don't - I don't know.

A: Or my glasses 'cause those are brand new too.

Q: Hopefully they got your property. What...

46
47 A: Well, if they do have it it's [REDACTED]
48
49 Q: 0210?
50
51 A: Yeah, and if you put down [REDACTED] - I don't know if that's right. My wife's
52 number - I know it's 008 something.
53
54 Q: Okay.
55
56 A: It's...
57
58 Q: We'll - we'll - we'll figure that out here in a little bit. Okay so obviously
59 you're in custody right now, right? You're not free to leave.
60
61 A: No.
62
63 Q: Um, I'm gonna read you your Miranda rights. You have the right to remain
64 silent. Anything you say can and will be used against you in a court of law.
65 You have the right to the presence of an attorney to assist you prior to
66 questioning and be with you during questioning if you so desire. If you cannot
67 afford an attorney you have the right to have an attorney appointed for you
68 prior to questioning. Do you understand these rights?
69
70 A: Yes.
71
72 Q: Time are we at?
73
74 Q1: 13:11
75
76 Q: Okay so it's - it's thirt- 1:11, on the 10th of June. Um, I just wanna talk to you
77 a little bit about what occurred down there at the hospital, kinda what led up to
78 this - this whole deal, you know what I mean, what - what brings you here
79 today so can you tell me what - what happened? You said you were thrown
80 down on the side - on the side of the interstate.
81
82 A: Yeah.
83
84 Q: Can you walk me through that?
85
86 A: Well, I was working on my car.
87
88 A: Okay.
89
90 Q: Okay

91
92 A: And we were test driving it and all that and it pulled hard to the left and it
93 jumped that curb.
94
95 Q: Who - who's we? You say we were test driving it.
96
97 A: Yeah, my friend was with me.
98
99 Q: What's your friend's name?
100
101 A: Uh, (Harold). I don't know his last name but my wife would know.
102
103 Q: Okay.
104
105 A: They used to...
106
107 Q: Do you have a contact number for him in your phone?
108
109 A: Yes.
110
111 Q: What's it listed under?
112
113 A: (Harold).
114
115 Q: Under (Harold)? Okay.
116
117 A: And I just walked down to the (Quik Pik) and see if anybody could pull me
118 out real quick. All of a sudden out of the blue, tow truck and highway patrol -
119 I'm like, what the hell is going on? Yeah.
120
121 Q: Okay.
122
123 A: And then I did the field sobriety test. Passed it with flying colors. And he was
124 just being an asshole and attacked me.
125
126 Q: Attacked you.
127
128 A: Yeah. He said, "You're under the influence of alcohol." I had, like, a beer
129 earlier today and then he's like, "Well, I smell it on you and you didn't pass,"
130 blah blah blah. I'm like, "Really dude."
131
132 Q: Okay.
133
134 A: Yeah.
135

136 Q: Okay so he - he's arresting you and you felt that it's not justified.
137
138 A: No.
139
140 Q: Okay.
141
142 A: I was just trying to get help getting my car and this guy's just (unintelligible)
143 and then the hospital guy and all that. I asked him, "Can I go call my wife
144 'cause she doesn't know where I'm at," and all that and they had me
145 handcuffed so I pulled the bed out towards him. I'm like, "Can I use the phone
146 to call my wife?" And all of a sudden he come flying at me.
147
148 Q: The hospital guy did?
149
150 A: No, the other cop.
151
152 Q: The other cop.
153
154 A: He was, like, Superman at me. I'm like, what the hell.
155
156 Q1: You're - you're saying that happened at the hospital.
157
158 A: At the hospital, yes.
159
160 Q: So let's real quick back up again so he - he's arresting you for...
161
162 A: Okay.
163
164 Q: ...for something - obviously from my side of it it sounds like he's trying to
165 arrest you for DUI.
166
167 A: Yeah.
168
169 Q: Okay so what happened there? I mean I know that you sustained some injuries
170 out there during that.
171
172 A: You think? And they didn't do anything about it in the hospital.
173
174 Q: Okay so all of this - that's from when you - when they were arresting you?
175
176 A: Yeah, I think he broke my wrist and all that and they refused to do x-rays and
177 everything else because they were just being jerks at (Benson) hospital. I
178 don't know what the problem.
179
180 Q: Okay.

181
182 A: And my face is burned.
183
184 Q: So there is obviously a little bit of a struggle out there on the side of the road.
185
186 A: Yeah.
187
188 Q: Between you and - and one officer or you and multiple...
189
190 A: Just one.
191
192 Q: Just one?
193
194 A: And I guess the tow truck driver came flying out somehow and I'm like,
195 what?
196
197 Q: Okay. So then now let's go to the hospital. You get to the hospital. Are - are
198 they trying to treat you with some - for some injuries and stuff?
199
200 A: Well, I was having a hard time breathing.
201
202 Q: Okay.
203
204 A: Because he stun gunned me and it finally kicked in, right?
205
206 Q: Did they - did they - did they - did they use the Taser out on...
207
208 A: Um, um...
209
210 Q: ...at the hospital or out there?
211
212 A: Out there. And it isn't - it doesn't do anything to me.
213
214 Q: Okay.
215
216 A: You know when you stick your finger in a light socket? That's more deadlier
217 than that. Earlier - pretty sure you've been tased or (triggered at).
218
219 Q: I have.
220
221 A: It doesn't (unintelligible).
222
223 Q: Okay so do you know how many times you got tased? Did you get tased
224 multiple times or just once?
225

226 A: Uh, I remember one time.

227

228 Q: One time.

229

230 A: But scuffling on the ground and all that I can't feel that.

231

232 Q: Yeah, yeah. You're adrenaline's surging through.

233

234 A: Yeah.

235

236 Q: Okay so now you go to the hospital. How'd you get to the hospital? Do you
237 remember?

238

239 A: They threw - threw me in a car. That's all I remember and it almost felt like a
240 - like I got thrown in a trunk.

241

242 Q: Really?

243

244 A: Yeah.

245

246 Q: So you weren't taken in an ambulance?

247

248 A: No.

249

250 Q: No?

251

252 A: They just picked me up and threw me in a vehicle. I couldn't see. It was black.

253

254 Q: Okay.

255

256 A: And my glasses were gone. My face had started swelling.

257

258 Q: Okay and it just - you - your glasses. Do you need those for it all...

259

260 A: All the time, yes.

261

262 Q: Okay, okay, so we'll try and track those down. Okay so when you get to the
263 hospital how are you taken into the hospital? Through - I mean - who - who -
264 who escorted you into the hospital? Just the officers or?

265

266 A: Yeah and on a stretcher.

267

268 Q: On a stretcher?

269

270 A: Yeah, 'cause they just took me out. I - I realized it wasn't a trunk. They just

271 threw me in there on the floor in the back.

272

273 Q: Okay.

274

275 A: So.

276

277 Q: But then they came out with a stretcher, put you on a stretcher...

278

279 A: Yeah.

280

281 Q: Took you in, okay. So - but at some point you end up in - inside of one of
282 their treatment rooms, right? And - and - and you had a chance to speak with a
283 doctor and a nurse?

284

285 A: Yeah, th- they were nice and all that stuff.

286

287 Q: Okay.

288

289 A: Yeah, and I said, "Well can I u- use the phone and call my wife, tell her where
290 I'm at?" And all that other stuff. They just sh - I'm like, really? Hello?

291

292 Q: Yeah, okay.

293

294 A: And then what I- well, this is like the bed so I just unlocked the thing and then
295 pulled it over and was like, "Can I use the phone to call my wife?" And all
296 that. And all a sudden Superman at me.

297

298 Q: Okay so what happened from there?

299

300 A: He just jumped me and all that and then I'm, like, trying to get him off me
301 'cause I have one hand right here and all that other stuff and the gun fuckin'
302 goes off. I'm like, what the fuck.

303

304 Q: His gun went off?

305

306 A: Yeah.

307

308 Q: Okay did you help the gun go off?

309

310 A: That I can't tell you 'cause we were tossing and turning and...

311

312 Q: Okay so I can tell you - I can tell you from my - from my knowledge of the
313 firearms that we use - I work for the same department. Those guns don't - they
314 got an internal safety. So if they get dropped or anything like that they don't
315 shoot off.

316
317 A: They're Glocks.
318
319 Q: Huh?
320
321 A: Glocks are horrible at that.
322
323 Q: These aren't Glocks.
324
325 Q1: Those aren't Glocks.
326
327 A: Then what are they?
328
329 Q: (FN).
330
331 A: Oh.
332
333 Q: And they've got (unintelligible).
334
335 A: Yeah, those are good.
336
337 Q: It's not gonna discharge just by being dropped. Somebody actually has to pull
338 the trigger.
339
340 A: Yeah.
341
342 Q: So did you do that?
343
344 A: I'm not sure if I did or not.
345
346 Q: You're not sure.
347
348 A: Yeah, 'cause we were scuffling on the - the - the bed.
349
350 Q: Did you at any time reach to - to pull the gun from his holster?
351
352 A: I was hugging him so you know officers got a bunch of shit.
353
354 Q: Uh-huh.
355
356 A: I might have. I don't know 'cause I was scuffling with him so.
357
358 Q: Okay, um, and then what happened after that? So the gun goes off and then -
359 and then what?
360

361 A: I had another fricken' asthma attack.

362
363 Q: Oh, did you?

364
365 A: Yeah.

366
367 Q: Okay so you have asthma. Okay, um, sounds like the doctors and the nurses
368 cleared you of that though. I - I spoke to the doctor and the doctor said,
369 "Yeah, I - I checked him. I could hear his breathing fine," and - and they
370 checked your oxygen levels and they checked all that stuff so.

371
372 A: Only thing I had was a (unintelligible) on me and then I don't know where the
373 hell that is 'cause...

374
375 Q: They were monitoring your heart with that.

376
377 A: Well, 'cause I couldn't see half the crap they were doing 'cause this whole
378 (arm and crap) was down here. (Unintelligible)

379
380 Q: So what about - let me go back real quick. When you were out, um...

381
382 A: Out on the street?

383
384 Q: Out on the street.

385
386 A: Okay.

387
388 Q: When you were fighting with that officer there did - did you go for his gun at
389 any time?

390
391 A: No.

392
393 Q: No? Not intentionally anyway?

394
395 A: No.

396
397 Q: What kind of - h- describe the scuffle with him. How - I mean he...

398
399 A: He was just...

400
401 Q: How intense was that? I mean.

402
403 A: Well, he stun gunned me so.

404
405 Q: Yeah. Did you - did you, like, fight back defensibly in any way? Did you

406 attack him? What...

407

408 A: Try to get him off me, yeah. Anybody would.

409

410 Q: That's what - that's what I'm trying to figure out.

411

412 A: Yeah, anybody would.

413

414 Q: I've arrested - I don't know how many people in my career.

415

416 Q1: Hundreds for me.

417

418 Q: And - and the only time it's gotten that way is in...

419

420 A: (Unintelligible)

421

422 Q: Let me - let me - you're under arrest.

423

424 A: Yeah.

425

426 Q: Get the handcuffs. Kick your ass.

427

428 A: No, this was not like that.

429

430 Q: Okay.

431

432 A: No, it was like, really? Well, he had me do the walk the line, go down, do y-

433 turn, walk back again. Passed it with flying colors. "Well, I'm arresting you

434 for DUI." I'm like, really?

435

436 Q: Okay.

437

438 A: And I was like, "Well, let me get my stuff out of the car," and all that and he

439 thought I was gonna run and he fricken' just...

440

441 Q: So did he try to put his hands on you and - and say you're under arrest and -

442 and then you were like, "Let me get my stuff real quick."

443

444 A: Yeah and then he just like, (unintelligible). I'm like, "Let me grab my

445 personal belongings and crap and then you can arrest me." You know? No.

446

447 Q: Okay.

448

449 A: And then all how big your dick is compared to mine shit. I'm like, come on,

450 dude.

451
452 Q1: Okay so when the officer went to grab you how did he go - this is on the road.
453 How did he grab you? Did he initially try to go for your arm or - or how did
454 he initially grab you?
455
456 A: Well, he grabbed me by my arm.
457
458 Q1: Okay.
459
460 A: That's why it looks broken again.
461
462 Q1: No, I understand that. I'm not arguing any of the injuries. I'm just trying to get
463 the details of the actual fight. So he grabs your arm, right?
464
465 A: Yeah.
466
467 Q1: And then at that point did you turn and try to pull away? Did you - what
468 happened right there?
469
470 A: I was like, "Well, can I go get my stuff," and all that and he's like, "No,
471 you're under arrest for being under the influence of alcohol."
472
473 Q1: Okay.
474
475 A: And then he just, like, me being a little guy like that he just threw me on the
476 fucking ground. I'm like, really?
477
478 Q1: 'Kay so you didn't try to pull away or turn or anything like that? Do you
479 remember that?
480
481 A: No, 'cause when he did this and all that and when he threw me on the ground
482 it's, like, when I - it pissed me off. I was, like, that's uncalled for.
483
484 Q1: Okay so he grabbed your wrist. You said, "No, let me grab my stuff," and he
485 immediately went to put you onto the ground.
486
487 A: Yeah. Pretty much.
488
489 Q1: Pretty much, okay?
490
491 Q: So your protest was pretty much verbal? You didn't at any time, like, pull
492 over anything like that?
493
494 A: Not that I remember 'cause it was dark and all that and I was trying to get my
495 car out of the ditch and home and just, like, trying to enjoy Cars Against

496 Humanity 'cause that's what we were doing at home. Just ran down to grab a
497 cigarette and test drive the car and all of a sudden it just went phew. I'm like,
498 goddamn.
499
500 Q: It just veered off the road?
501
502 A: Yeah.
503
504 Q: What's wrong with it? What's wrong with you said?
505
506 A: Well, I was doing the suspension and all that and (unintelligible) and all that
507 so I'm thinking my tire rod snapped or something.
508
509 Q: Okay.
510
511 A: Yeah.
512
513 Q1: Okay.
514
515 A: I wouldn't know 'cause I couldn't get it out. All of a sudden everybody shows
516 up. I'm like, "You guys gonna help me," you know?
517
518 Q: So (unintelligible) did you - did you, uh, how much did you have to drink at
519 the time? Last night?
520
521 A: That - in that day I had, um, one margarita and a beer.
522
523 Q: One margarita and a beer. So in anyway did you feel like you were impaired?
524
525 A: No.
526
527 Q: Not at all?
528
529 A: No.
530
531 Q: Not at all, okay. Now, um, are you, uh, are you - what - what kind of things
532 have you been arrested for in the past?
533
534 A: Me? Well, um, domestic violence but those aren't, like, me beating her up or
535 any of that crap. It was just...
536
537 Q: Just contact stuff.
538
539 A: Yeah, like, breaking something.
540

541 Q: Okay so criminal damage.
542
543 A: Yeah.
544
545 Q: Okay h- have you ever - have you ever been to prison before?
546
547 A: County jail.
548
549 Q: Just county.
550
551 A: 15 years ago.
552
553 Q: Yeah.
554
555 A: Yeah.
556
557 Q: Okay you ever been convicted of any felonies or anything like that?
558
559 A: That was expunged when I got a dirt bike that was valued over \$700, okay. So
560 I thought (unintelligible)
561
562 Q: Did you - have you petitioned to have your rights restored?
563
564 A: Yeah.
565
566 Q: Yeah?
567
568 A: They've been restored and all.
569
570 Q: Okay so you're a legal gun owner.
571
572 A: Yes.
573
574 Q: Okay there was a firearm inside the vehicle?
575
576 A: Yes, there was.
577
578 Q: Okay.
579
580 A: There was a .25 in my glove box.
581
582 Q: Okay that's your - so you own that? You bought that legally? All - all - that's
583 all good to go.
584
585 A: Yeah.

586

587 Q: Okay.

588

589 A: Yeah.

590

591 Q: Um...

592

593 A: (Unintelligible) other stuff. If I wanted to shoot somebody (unintelligible) I
594 usually carry my .40 on me but, you know, I didn't wanna carry it that night
595 (unintelligible).

596

597 Q: Yeah. Okay.

598

599 A: 'Cause you get so many visitors out there at that (Quik Pik) from
600 (unintelligible) and a bunch of other weird places.

601

602 Q: Yeah.

603

604 A: Yeah.

605

606 Q: Okay so you live right up there in Mescal area, (J6) area?

607

608 A: Mescal, just up by the fire department.

609

610 Q: Oh, okay.

611

612 A: Well, funny is 'cause I just seen Judge (Staggs) at (Quik Pik) and he was
613 about to come over and have him sign my yard. I'm like, great.

614

615 Q: Nice.

616

617 A: Yeah.

618

619 Q: Okay, um, and (Harold) was there during this whole thing.

620

621 A: Yeah.

622

623 Q: Okay so we'll be able to go talk to (Harold). Does - does (Harold) live with
624 you?

625

626 A: No, he lives in Tucson. He's down here for Cars Against Humanity.

627

628 Q: Uh, do you know his phone number off the top of your head?

629

630 A: No.

631
632 Q: No? And you don't know his last name?
633
634 A: No.
635
636 Q: But he is in your phone under (Harold)?
637
638 A: Yes.
639
640 Q: Okay, um, so - so part of - part of the issue that - that we have is obviously
641 we're being told a little bit of a different - different story.
642
643 A: I bet you are.
644
645 Q: So we weren't there. We don't have the luxury of - of having witness to where
646 I could say one side.
647
648 A: Yeah.
649
650 Q: Okay so our understanding from the guys that were out on the side of the road
651 is that you were actively resisting arrest.
652
653 A: Mm-hm.
654
655 Q: Um, and that you - out on the side of the road you went after one of the guys
656 guns.
657
658 A: There was only one officer out there.
659
660 Q: Mm-hm
661
662 Q1: Mm-hm.
663
664 A: Who else had a gun out there? The tow truck driver?
665
666 Q: No. You went after the officer's gun.
667
668 A: No.
669
670 Q: No?
671
672 A: No.
673
674 Q: Okay, um, then the other thing that we're being told is, again, I wasn't there.
675

676 A: Yeah.

677

678 Q: Um, at the hospital when the gun discharged that you had the gun.

679

680 A: I don't know what I had. But it went off and all that and whatever I had in my
681 hand...

682

683 Q: You just were grabbing on to stuff.

684

685 A: Yeah.

686

687 Q: Okay did you - did you notice that you dropped it when another officer came
688 in and - and actually drew his gun and - and put it into your chest?

689

690 A: No, I thought he wanted me to stop because...

691

692 Q: Yeah, he said, "Drop it. Drop it."

693

694 A: I don't know.

695

696 Q: Okay so the officer who is the owner of the gun that ended up going off that
697 was shot - he said you went for his gun. He was trying to put you back on the
698 bed.

699

700 A: Mm.

701

702 Q: And that you went for his gun and actually gained control of his gun and then
703 the other officer came in. That's when it went off. The other officer came in
704 and said that you were still in possession of the gun and he yelled at you to
705 drop the gun and...

706

707 A: Felt like - kinda felt like an animal (unintelligible) or something.

708

709 Q: Okay so frankly we'll just - it - we're glad things worked out the way they did
710 where nobody seriously...

711

712 A: Yeah, yeah because...

713

714 Q: ...seriously hurt because the other officer, um, had every intention to stop you,
715 um, if you'd dropped the gun so they stopped which is a good thing. We're
716 glad we're where we're at right now. We're not doing something else but, um,
717 I'm just telling you where we're at so, um...

718

719 A: Well, is the officer okay?

720

721 Q: Yeah, I think that - yeah. So...

722

723 A: Scared the hell out of me too.

724

725 Q: Oh I'm sure. I'm sure. I'm sure. So thing is is sometimes we let our - we let
726 our (unintelligible) emotions get the best of us. And when I think I'm in the
727 right and somebody else is doing something, um, sometimes I let my emotions
728 get ahead of me and - and I think that's what happened tonight was we let our
729 emotions get the best of us.

730

731 A: Mm-hm.

732

733 Q: Um, I - I - I think you know that you had ahold of his gun. Not saying you
734 were intending on killing the officer. Not saying that at all. I hope not.

735

736 A: No. Hell, no.

737

738 Q: You don't - you don't seem like that kind of guy that would...

739

740 A: No, no, no. I take out shooting, target shooting but...

741

742 Q: My big concern is - is - is I do think at - at one point you did have control of
743 his firearm.

744

745 A: Did I?

746

747 Q: Yeah.

748

749 A: Oh. I hope I didn't.

750

751 Q: Well, he's...

752

753 A: I know I...

754

755 Q: ...two hands on you.

756

757 A: Well, this one is...

758

759 Q: You had one hand secured to the table.

760

761 Q1: No, he had both his hands on you. He - he took...

762

763 Q: When - so from what they're telling us is that when you head to the door,
764 when you're saying that you want the phone, he came in and he put you back
765 in the bed.

766
767 A: Mm, no. It was more of a Superman grab and all that.
768
769 Q: Okay.
770
771 Q1: But he picked you up and...
772
773 A: Pulled like...
774
775 Q: So during that scuffle...
776
777 A: Yeah, and there's a bed.
778
779 Q: During that scuffle he's got two hands on you trying to - to take...
780
781 A: Yeah, and I'm over him like this trying to get him off and all that other stuff
782 and then...
783
784 Q: So at some point there you were able to gain control of his handgun.
785
786 Q1: 'Cause you said you - you were hugging around his belt and grabbing stuff.
787
788 A: Yeah, trying to get him off and all that, pulling on his shirt, whatever I can
789 grab and all that and then the gun went off and that's when I kind of had a
790 hand of something and it didn't feel like a gun. It felt like pepper spray or
791 something 'cause it had - it was long. It didn't have a barrel on it or anything,
792 whatever it was. What do those guns look like? 'Cause it didn't - it feels like...
793
794 Q: Normal handgun.
795
796 A: Yeah, it didn't feel like that. It felt like something else.
797
798 Q: Okay.
799
800 A: 'Cause I - I deal with guns daily.
801
802 Q: Mm-hm.
803
804 A: I - I fix them, I make parts for 'em, I go shoot 'em, yeah, and that did not feel
805 like no gun.
806
807 Q: Okay.
808
809 A: It wasn't even that loud. It sounded like a 22.
810

811 Q1: Well, that's a psychological deal. Your - your brain will literally shut down
812 the sound of a gunshot in your head. That's - that's been proven more than
813 once.

814
815 A: Oh.

816
817 Q1: So the sound of the report of a gun isn't as loud as it actually is.

818
819 A: Oh.

820
821 Q1: Your brain shuts it down.

822
823 Q: Yeah.

824
825 A: You hear that bomb?

826
827 Q: Yeah.

828
829 Q1: And that's - that's your brain saving things...

830
831 A: Mm-kay.

832
833 Q1: ...is what that comes down to. Um, but back out on the scene. We're gonna go
834 back to the street. When he - when the officer went and put you on the ground
835 what did you do then?

836
837 A: I tried to get him off me 'cause it was wrongfully, uh, accused. I'm like, come
838 on, dude.

839
840 Q1: Okay how did you try to get him off you?

841
842 A: Well, he was, like, basically laying on me.

843
844 Q1: Okay.

845
846 A: Yeah, so I was trying to push him off...

847
848 Q1: Were you on your back at the time or were you on your stomach?

849
850 A: Actually I was on my face.

851
852 Q1: So you were on your stomach.

853
854 A: Well, no I was...

855

856 Q: You were face first t- towards the ground, right?

857

858 A: No, just my face was on the ground like this so I was kinda like...

859

860 Q: On your side.

861

862 A: Yeah, that's why my shoulder's all chewed up.

863

864 Q1: Okay so you were on - you're on your right side or your left side, do you think?

865

866

867 A: My right side.

868

869 Q1: You were on your right side. He's still trying to put you in handcuffs.

870

871 A: Yeah.

872

873 Q1: Okay you're obviously - you think it's wrong.

874

875 A: Yeah.

876

877 Q1: So you're verbally saying this is wrong.

878

879 A: Yeah.

880

881 Q1: And then how are you physically reacting to the officer? Did you throw any punches?

882

883

884 A: No.

885

886 Q1: Did you - did you elbow him? Did you try to pull your arm free? Were you kicking? Were you trying to roll away from him? How did that go down? Because if you're not actively moving around or physically trying to fight him putting you in handcuffs should have been pretty easy.

889

890

891 A: Yeah.

892

893 Q1: But if you're...

894

895 A: I was rolling around trying to get away.

896

897 Q1: You were trying to roll around, trying to get away.

898

899 Q: Trying to push him off.

900

901 A: Yeah.
902
903 Q1: You try to push him off at some point.
904
905 A: Yeah.
906
907 Q1: So at some point you got on your back?
908
909 A: Yeah.
910
911 Q1: Okay and you try to push him off.
912
913 A: Yeah.
914
915 Q1: Okay.
916
917 A: That didn't work. Then the tow truck driver came and helped him and they put
918 me in handcuffs.
919
920 Q1: Correct.
921
922 A: I just wanted to get the crap out of my car.
923
924 Q1: Okay
925
926 A: You know? Come on. There was no need for all that.
927
928 Q1: Sure. I wasn't there.
929
930 A: I know.
931
932 Q1: I, like, I can't argue with either one of you. I wasn't here.
933
934 A: Yeah.
935
936 Q1: Uh, I understand your point of view and I do understand his point of view be-
937 because I wasn't there. I'm just here to get both sides. And I'm asking specific
938 details so we can corroborate either side 'cause either side doesn't matter to
939 us. We're just trying to get the facts from both sides.
940
941 A: Yeah, because he tased me and all that
942
943 Q: Do you remember where he tased you?
944
945 A: Um, I remember when they were getting me somewhere and all that, "Do you

946 wanna leave the - the (unintelligible) wires in there?" And I don't know if
947 they pulled 'em out at the hospital or what. Because my body went numb after
948 that.

949
950 Q: Do you know if they were in your back or was it in your arms or...

951
952 A: Actually I don't - no, those are from my handcuffs. I couldn't tell you.

953
954 Q1: Okay so you're - you're on the - your side. You can - you're rolling around
955 and you're trying to push him away. Did - was he still on top of you making
956 contact when he tased you and he just put the - the taser right up against you
957 and tased you or did he step back and fire the Taser at you?

958
959 A: No, 'cause he was still on me when he did it.

960
961 Q1: Okay so the tas-

962
963 A: I don't know if he was using the - the close up not the barbs. I - I don't know
964 but they said to leave the wires on him.

965
966 Q1: Mm-hm.

967
968 A: I'm, like, I don't know if they stuck me with the wires.

969
970 Q1: Okay. And you don't remember how many times you were tased? You think it
971 was just one?

972
973 A: Yeah, I can't feel that. I mean...

974
975 Q1: Okay no. Adrenaline's adrenaline, man. That (unintelligible)

976
977 A: I stun gun myself all the time. It's, like, like, come on, buddy. Do it to your
978 leg. (Unintelligible), you know, one of those cheap ass ones - 10,000 watt
979 ones. Stick it in your leg, man, you know.

980
981 Q1: Mm-kay.

982
983 A: Being stupid.

984
985 Q: Okay so how did - how - how did (Harold) (unintelligible)?

986
987 A: (Harold) was actually in the car with me.

988
989 Q: He was riding with you.

990

991 A: Yeah, I told him to wait by the car and I walked down to (Quik Pik).
992
993 Q: How far away from (Quik Pik) were you guys?
994
995 A: Like, I was right there. It's, like, well - okay. My car and the (Quik Pik)...
996
997 Q: This is (Medalarch) Road.
998
999 A: Yeah. And my car was, like, right here over the curb and all that. But I had to
1000 walk down and around because they had the cattle fence.
1001
1002 Q: Oh, okay.
1003
1004 A: Yeah, and then I went in there. I was like, you know, "Can you help me get
1005 my car out," and all that and he's like, "No." And then when I was walking
1006 back the tow truck and the cops and I'm like, what the hell? There's never this
1007 (unintelligible) out here.
1008
1009 Q: Well, it might have just been an area, I don't know.
1010
1011 A: Yeah.
1012
1013 Q: Um...
1014
1015 A: And there was nobody at the store. Nobody.
1016
1017 Q: Yeah.
1018
1019 A: Yeah, I'm like, where'd they all go?
1020
1021 Q: Okay so you didn't have an accident though?
1022
1023 A: No.
1024
1025 Q: I mean just some mechanical problems.
1026
1027 A: Yeah 'cause I've been working on it. My wife drives it back and forth a few
1028 times to work and then the head gasket, water pump, some of the suspension
1029 and I think the tire rod were, um, were bent out.
1030
1031 Q: Okay.
1032
1033 A: The ball joints were bad on it so it probably just popped out and fuckin' went
1034 that way.
1035

1036 Q: Okay, um, just sit tight for a second. I'll be right back with you.

1037
1038 A: Okay.

1039
1040 Q: (Unintelligible).

1041
1042 ((Crosstalk))

1043
1044
1045 The transcript has been reviewed with the audio recording submitted and it is an accurate
1046 transcription.
1047 Signed _____

1048

1049

1050

1051

1052

1053

1054

1055

INTERVIEW WITH MATTHEW MENARD

Q=Det. Deskins

Q1=Det. Boothe

A=Matthew Menard

1056

1057

1058

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1069

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1073

1074

1075

1076

1077

1078

1079

1080

Q: Um, so walk us through again, 'cause - w- walk us through with as much detail as you can how - how we got to where you and the officer are struggling in that room.

A: Well they - when they had me handcuffed to the bed and all that and I was like, "Can I use the phone so I can call my wife and tell 'em, that - where I'm at, and all that other stuff," you know, they just look at me and just walk away. So I got off the bed and rolled it, uh, uh, of c- of course I was bein' a little louder than I needed to be.

Q: Okay.

A: Yeah.

Q: What do you mean by that?

A: Like, because there was people next door and one of the nurses said, "There's people next to you." I was like, "Well I just want to use the dang phone."

1081 Q: Okay.

1082

1083 A: You know, and all that. But when I pulled it even out towards the door a little
1084 bit, well you can't fit 'em out the door when you're handcuffed kinda through
1085 the door and all that, he - the officer come back and all that and kinda - it was
1086 kinda, like, a push kinda pick up and all that. And when he did that, he fell on
1087 top of me and then tried to - what is it, like, the elbow, or arm, like, hold me
1088 down with that, whatever you call that. I don't know what you call that. A
1089 wrestling move, um, I...

1090

1091 ((Crosstalk))

1092

1093 Q: I don't know, there's a technical term that...

1094

1095 A: Yeah, uh, yeah, uh, uh, "You're fucked buddy," or ho- yeah. And then we
1096 were ju- I was scuffling with him and all that to get him off and all that. And
1097 then...

1098

1099 Q: So where were - when he comes in and - and - and puts you down - holds you
1100 down, were you face-first in - in the bed?

1101

1102 A: No, I...

1103

1104 Q: Were you...

1105

1106 A: ...was back - my legs were basically dangling off the end, and my back...

1107

1108 Q: You guys are...

1109

1110 A: I was, like...

1111

1112 Q: ...face-to-face?

1113

1114 A: Yeah, I was basically towards the - the wall.

1115

1116 Q: Okay.

1117

1118 A: And my feet were hanging off and he was on top of me.

1119

1120 Q: Okay. And which hand was cuffed to the bed?

1121

1122 A: This one here.

1123


1124 Q: That hand?

1125

1126 A: That's probably why it's all swollen and fucked up.
1127
1128 Q: Okay.
1129
1130 A: Because it - your hand can only bend so far.
1131
1132 Q: Yeah. And so when - when you guys are right there, you said there's a little
1133 bit of a scuffle.
1134
1135 A: Yeah.
1136
1137 Q: Are you tryin' to get him off of you?
1138
1139 A: Yeah, 'cause I just wanted to use the phone.
1140
1141 Q: Okay.
1142
1143 A: You know.
1144
1145 Q: And...
1146
1147 ((Crosstalk))
1148
1149 Q: ...how were you trying to get him off of you? In what way?
1150
1151 A: Well I only had one arm, so I was tryin' to push, pull, do whatever I can...
1152
1153 Q: Yeah.
1154
1155 A: ...with one arm.
1156
1157 Q: Are you, like, pushin' up towards his face? Are you...
1158
1159 A: No, I was more, like, tryin' to push him - roll him off type...
1160
1161 Q: Okay.
1162
1163 A: ...and all that other stuff. Yeah, it's, like, one man - a one-armed man acting
1164 like this. 'Cause y- I can't use my legs 'cause he on them, and my arm - this
1165 arm's handcuffed and I had this one arm, and it's, like, I couldn't do much.
1166
1167 Q: Okay.
1168
1169 A: Yeah.
1170

1171 Q: So kind of a little bit wrestlin' with him?
1172
1173 A: Yeah, I'm pretty much, like, I might as well just give it up.
1174
1175 Q: Okay, but when you're - when you're doin' that, are you kinda all the way
1176 around on his waist? I mean...
1177
1178 A: No, I only can meet, like, a little ways past the middle of his back and tried -
1179 or was grabbing whatever.
1180
1181 Q: Okay, so you're grabbin' at, like, his belt?
1182
1183 A: Yeah.
1184
1185 Q: That's probably the easiest thing for you to get ahold of?
1186
1187 A: Yeah, and whatever he kept on the back with the handcuff thing and stuff like
1188 that, yeah. Tried to...
1189
1190 Q: Okay.
1191
1192 A: ...pull him off.
1193
1194 Q: Okay.
1195
1196 Q1: Did you try to do any resisting with the left hand that was handcuffed? Did
1197 you use your left hand at all...
1198
1199 ((Crosstalk))
1200
1201 A: I couldn't. Because it was handcuffed and I...
1202
1203 Q: So what...
1204
1205 A: ...couldn't...
1206
1207 Q: ...hand did - were you able to grab? You said you grabbed some object.
1208
1209 A: Well would be my right hand.
1210
1211 Q: You got his, uh...
1212
1213 A: 'Cause I think when I got him to roll over more and all that other stuff.
1214
1215 Q: Okay.

1216
1217 A: Yeah.
1218
1219 Q: Okay. Um...
1220
1221 A: But he was like, "Just sit down or I'm gonna tase you or something. Not
1222 friggin' no friggin macho, macho and do...
1223
1224 Q: Okay.
1225
1226 A: ...that shit." There's no reason for that either.
1227
1228 Q: Well it - it sounds like there was a lot of leading up to that though, right?
1229
1230 A: I was bein' loud, basically, yeah.
1231
1232 Q1: Cussin' kind of at everybody?
1233
1234 A: Only at the, um...
1235
1236 Q: 'Cause I mean we - we talked with the nursing staff, we talked with the
1237 doctors, and m- they're all pretty consistent on, uh...
1238
1239 Q1: You came in cussin' and spittin', and you continued to the whole time.
1240
1241 A: Probably.
1242
1243 Q1: Maybe not spittin', but...
1244
1245 A: Yeah, not spittin', no, like, no.
1246
1247 Q1: Okay.
1248
1249 Q: But cussin' and yellin' at everybody.
1250
1251 Q1: Cussin'...
1252
1253 A: Yeah.
1254
1255 Q1: ...and yellin'?
1256
1257 A: Yeah, 'cause I wanted the phone and all that, and...
1258
1259 Q: Yeah.
1260

1261 Q1: Okay.
1262
1263 A: ...well it was probably deserved when I asked someone to do that.
1264
1265 Q1: Okay, so...
1266
1267 A: Yeah.
1268
1269 Q1: ...if you're cussin' at me am I givin' you your phone? If - if I'm...
1270
1271 A: No.
1272
1273 Q1: ...cussin' at you, are you givin' me your phone?
1274
1275 A: True.
1276
1277 Q: Okay.
1278
1279 A: But I did ask nicely and all the other stuff first, before I went belligerent.
1280
1281 Q: Okay.
1282
1283 A: And they just ignored me and all that, because my wife's home with the two
1284 kids and...
1285
1286 Q1: Right.
1287
1288 A: ...you know, come on, common sense...
1289
1290 Q1: Well...
1291
1292 A: ...people.
1293
1294 Q: So let me real quick back up, did - I - I was just told that, um, the County were
1295 they out at your house last night too?
1296
1297 A: The County?
1298
1299 Q: The County Deputies, Sheriff's Department?
1300
1301 A: Not that I know of.
1302
1303 Q: What's your address?
1304
1305 A: 

1306
1307 Q: [REDACTED]
1308
1309 A: [REDACTED]
1310
1311 Q: [REDACTED]
1312
1313 A: Yeah.
1314
1315 Q: Okay, so, yeah, I was told they were out there...
1316
1317 Q1: Around...
1318
1319 Q: ...last night.
1320
1321 Q1: Around midnight, before you even left to drive the car to go get cigarettes.
1322
1323 Q: What time did you leave to go get the cigarettes?
1324
1325 A: Well I went down to the Happy Valley area with my buddy and all that.
1326
1327 Q: Okay.
1328
1329 A: 'Cause he - yeah, 'cause he's basically - you can't see the stars in Tucson.
1330
1331 Q: Yeah.
1332
1333 A: Yeah, so I took him down to the river track right there and...
1334
1335 Q: What time did you do that?
1336
1337 A: Hell, you know what? I don't know.
1338
1339 Q: No, you don't recall?
1340
1341 A: No.
1342
1343 Q: Do you remember about what time your vehicle had experienced the
1344 mechanical problems?
1345
1346 A: It was probably around - yeah, I don't - yeah.
1347
1348 Q: Not certain?
1349
1350 A: No. But there was no cops. I would have seen 'em past me, if they were goin'

1351 towards my house.
1352
1353 Q: Did you - did you and your wife have a - a little bit of an argument last night?
1354
1355 A: Yeah, but we si- we situated it and all that, because...
1356
1357 Q: Okay.
1358
1359 A: ...she didn't want me out there workin' with (unintelligible), and "Well come
1360 in and have fun with us, we're playin' this card game. We only play it once
1361 a," blah, blah, blah. And, you know...
1362
1363 Q: And you don't remember what time that was?
1364
1365 A: No. When we have cards and all that it's whenever we get tired.
1366
1367 Q: I gotcha.
1368
1369 A: Yeah. It's, like, a big - big football game, "Oh, man, it's over, I guess party's
1370 over," you know.
1371
1372 Q: Yeah, I gotcha. How many people were over at your house for that card
1373 game?
1374
1375 A: Uh, me, my wife, so that's two, (Harold), (Sal), and (Ruby).
1376
1377 Q: (Sal) and (Ruby)?
1378
1379 A: Yeah.
1380
1381 Q: Do you know (Sal) and (Ruby)'s last names?
1382
1383 A: No. These are all people my wife works - well (Harold) used to work for
1384 that...
1385
1386 Q: What's...
1387
1388 A: ...BSI.
1389
1390 Q: What's your wife's name?
1391
1392 A: (Jennifer).
1393
1394 Q: (Jennifer), same last...
1395

1396 A: Yes.
1397
1398 Q: ...Menard? Okay. Um, so - and, again, I - I - I had them look at - I haven't
1399 even talked to the Deputy that went out to - to your place last night.
1400
1401 A: I mean that was the first news right there.
1402
1403 Q: Okay.
1404
1405 ((Crosstalk))
1406
1407 Q: So as far as you know nothin' ...
1408
1409 Q: No...
1410
1411 Q: ...no reason why the Deputies would have been called to your house?
1412
1413 A: Not that I know of.
1414
1415 ((Crosstalk))
1416
1417 A: Maybe 'cause I was gone too fa- - long, or something. I have no idea.
1418
1419 Q: They said - they said somethin' about, uh, some criminal damage, right?
1420
1421 Q1: Some windows...
1422
1423 ((Crosstalk))
1424
1425 Q1: ...breaking?
1426
1427 Q: Broken up.
1428
1429 Q1: Glass breaking?
1430
1431 A: No. The windows in my house are cracked, but that - they have tape on 'em,
1432 until I can get those replaced, but...
1433
1434 Q: Well...
1435
1436 A: ...not breaking.
1437
1438 Q: No new - no new breaks?
1439
1440 A: No.

1441
1442 Q: Okay.
1443
1444 Q1: Didn't throw a beer bottle? Somebody didn't throw a beer bottle, drop a beer
1445 bottle? Just drop it...
1446
1447 A: No, we didn't...
1448
1449 Q1: ...and have it break?
1450
1451 Q: No beer bottles?
1452
1453 A: No, we make margaritas.
1454
1455 Q: Okay.
1456
1457 A: So if you're gonna throw a solo cup and break a window, then that's a strong
1458 ass solo cup.
1459
1460 Q1: Heck, yeah. Heck, yeah, it is. We're just goin' off of what we've heard.
1461
1462 A: Yeah.
1463
1464 Q: The, uh...
1465
1466 ((Crosstalk))
1467
1468 A: It's a he say, she say kinda - yeah.
1469
1470 Q1: Mm-hm.
1471
1472 Q: Yeah.
1473
1474 A: I know, and it's just like really?
1475
1476 Q: Okay. Well, Matt, is there - do you have any questions for me?
1477
1478 A: Yeah. Well what am I gettin' charged with?
1479
1480 Q: Well right now you're gonna be charged with aggravated assault, okay?
1481
1482 A: Uh, for...
1483
1484 ((Crosstalk))
1485

1486 Q: For at least three officers, um, not to mention...
1487
1488 A: Three?
1489
1490 Q: Yeah. So you have the officer on the scene, um...
1491
1492 A: On the road.
1493
1494 ((Crosstalk))
1495
1496 A: And then one on...
1497
1498 ((Crosstalk))
1499
1500 Q: Any time you fight with an officer that's aggravated assault, okay?
1501
1502 Q1: Along with resisting.
1503
1504 Q: Resisting arrest. Um, the other two officers that are there for the - the gun
1505 shot...
1506
1507 A: Uh-huh.
1508
1509 Q: ...and the...
1510
1511 ((Crosstalk))
1512
1513 A: A couple of 'em were together when they were there, so...
1514
1515 Q: Yeah, there was two there.
1516
1517 A: Okay. I didn't see...
1518
1519 Q: And then you've got, uh, you're gonna also be charged with aggravated
1520 assault for the medical staff that was there. When the round went off it went
1521 through a wall and almost hit one of the nurses.
1522
1523 A: Hm.
1524
1525 Q: Okay? So you're gonna be charged with that stuff.
1526
1527 Q1: And there were also two other medical staff personnel within two feet of
1528 where the - the round's trajectory into the wall.
1529
1530 A: No, shit.

1531
1532 Q: Yeah. So we're glad things didn't - didn't get worse, but they clearly could
1533 have.
1534
1535 A: Yeah.
1536
1537 Q: And that's why we're sayin' some decisions were made last night - and I'm
1538 not sayin' that you're that guy, but I think you - you made some dumb
1539 decisions last night...
1540
1541 A: Hm.
1542
1543 Q: ...that - that kinda put us in the situation we're...
1544
1545 A: Yeah.
1546
1547 Q: ...in right now. Um, so...
1548
1549 A: Wow. Well I guess I don't have no gun rights anymore.
1550
1551 Q: Well that's - that's not our...
1552
1553 Q1: You - you've...
1554
1555 Q: ...our job.
1556
1557 Q1: You've got to be convicted...
1558
1559 Q: Yeah.
1560
1561 Q1: ...we're just gathering the information. And that's why we came to talk to you,
1562 'cause we want...
1563
1564 Q: Yeah.
1565
1566 Q1: ...your side of it as well.
1567
1568 A: Yeah. So where do we go from here?
1569
1570 Q: Um, well we're gonna leave you here for a little bit. Again, um, we've got to
1571 get some paperwork done and then you're gonna be transported down to the
1572 Bisbee Jail. You'll be booked in on the - on the charges, okay?
1573
1574 Q1: Or possible Sierra Vista, I don't know
1575

1576 Q: Yeah.
1577
1578 Q1: Whoever's gonna take it.
1579
1580 A: Mm-hm. It'd be nice to have a good shirt.
1581
1582 Q: Yeah.
1583
1584 Q1: Well...
1585
1586 Q: They'll dress you up.
1587
1588 Q1: Yeah, they'll...
1589
1590 ((Crosstalk))
1591
1592 Q1: They'll give you that really cool orange one when you get there.
1593
1594 A: Yeah, that probably has so many bacteria and diseases...
1595
1596 ((Crosstalk))
1597
1598 Q: Oh they do a good job cleaning 'em.
1599
1600 A: And, what, they refill the shit, yeah.
1601
1602 Q: Don't know that.
1603
1604 Q1: I know they c wash 'em.
1605
1606 Q: Yeah.
1607
1608 Q1: That's as far as I can...
1609
1610 ((Crosstalk))
1611
1612 A: Yeah, right. If you use Tide, you know, uh...
1613
1614 Q: Okay. All right, Matt, if, uh, if there's nothin' else, then we're gonna go ahead
1615 and head on out, okay?
1616
1617 A: Mm-hm. No, 'cause I shouldn't be charged with that, just the DUI. I mean it
1618 all for doin' stupid shit, but, yeah, they didn't...
1619
1620 ((Crosstalk))

1621
1622 A: ...have the right to do all that. I didn't have the right to...
1623
1624 Q: Well do you - do you think - do you think you should be charged with a DUI,
1625 but nothin' else?
1626
1627 A: Yeah. Maybe one...
1628
1629 Q: Okay, so...
1630
1631 A: ...resisting arrest.
1632
1633 Q: So this - see that's the problem. If they have a right to arrest you for DUI,
1634 once he tells you you're not free to leave, you don't have the - and - and...
1635
1636 A: I know.
1637
1638 Q: ...put yourself in our shoes.
1639
1640 A: Yeah.
1641
1642 Q: If I'm out there by myself, I don't know you from Adam. You've got a gun in
1643 your car. How do I know that you're not tryin' to get to that gun to - to kill
1644 me?
1645
1646 A: Oh no.
1647
1648 Q: Once I tell you you're...
1649
1650 A: Well yeah.
1651
1652 Q: ...under arrest...
1653
1654 Q1: Yeah.
1655
1656 Q: ...you're - you're freedom to move about is done. You're done, you don't have
1657 that luxury anymore. Because - I mean think about the - the climate that we're
1658 in right now, right?
1659
1660 A: Yeah, true.
1661
1662 Q1: Mm-hm.
1663
1664 Q: So when he says, "You're under arrest, turn around and put your hands behind
1665 your back..."

1666
1667 A: Yeah.
1668
1669 Q: ...the fight didn't need to happen.
1670
1671 A: No.
1672
1673 Q1: And...
1674
1675 Q: It didn't need to happen.
1676
1677 Q1: ...whether you agree with the arrest or not doesn't matter, because if he
1678 wrongfully arrests you, that's somethin' you...
1679
1680 Q: You can handle it...
1681
1682 Q1: ...can deal with after.
1683
1684 Q: ...later.
1685
1686 A: Yeah, I'm gonna have to, because he did. Because I did his field test and
1687 passed it with flying colors.
1688
1689 Q: Okay.
1690
1691 A: Yeah. And that's the fastest response that I've seen out there for a tow truck
1692 and a cop, when I just got out of the damn car, to walk down to the Quick
1693 Pick.
1694
1695 Q: So what do you think can happen with that? I mean...
1696
1697 A: I have no idea. All of a sudden I'm walkin' back and here's a tow truck, and
1698 all of a sudden here comes a black and silver - what is it, a State Trooper, or
1699 whatever...
1700
1701 Q: Mm-hm.
1702
1703 A: ...yeah, come off the freeway, I'm like, "What the hell?"
1704
1705 Q: Yeah.
1706
1707 A: It's, like, that's the fastest response, and there's nobody around, who in the
1708 hell called?
1709
1710 Q: That I don't know.

1711
1712 A: Yeah, that's just the mystery. I'm like, "What the hell?"
1713
1714 ((Crosstalk))
1715
1716 Q: But that's - that's somethin' that, quite frankly, doesn't need to be taken care
1717 of right then and there, right? You don't need to be fightin' the officers over
1718 that.
1719
1720 A: Yep.
1721
1722 Q: And - and so, um...
1723
1724 Q1: And allowing you to go - if I say, "You're under arrest," am I gonna let you
1725 go back to your car to get your stuff?
1726
1727 A: Probably not.
1728
1729 Q1: It...
1730
1731 A: Probably...
1732
1733 Q1: ...doesn't - it doesn't make sense to me, because I don't know what you have
1734 in your car.
1735
1736 A: True.
1737
1738 Q1: And we didn't find out about the gun until later anyway.
1739
1740 A: Mm-hm.
1741
1742 Q1: And the officer on the side of the road didn't know about the gun, but he
1743 doesn't know what's in the car.
1744
1745 Q: Exactly.
1746
1747 A: Yeah.
1748
1749 Q1: And...
1750
1751 A: Well I wasn't in the car, so I didn't have to notify him about that one.
1752
1753 Q1: We're not sayin'...
1754
1755 Q: We're not...

1756
1757 Q1: ...you did.
1758
1759 Q: ...sayin' that.
1760
1761 Q1: We're sayin' ...
1762
1763 A: Yeah.
1764
1765 Q: Because when he says...
1766
1767 A: I wasn't...
1768
1769 Q: ...you're not goin' back to the car right now, you're under arrest, that's the end
1770 of it.
1771
1772 A: Yeah.
1773
1774 Q: You don't need to go to your car.
1775
1776 A: Yeah.
1777
1778 Q: And you're not in a pos- position at that point to say, "Yes, I am." Because
1779 that's why we got in that situation.
1780
1781 A: Yep.
1782
1783 Q: Because as far as he knows your intentions are - are bad...
1784
1785 A: No.
1786
1787 Q: ...right?
1788
1789 A: Hell, no.
1790
1791 Q: Well...
1792
1793 A: I'm not that type of person.
1794
1795 Q: Unfortunately, I mean the struggle by itself kind of gave fodder to his beliefs.
1796
1797 A: Yeah.
1798
1799 Q: Did you make any comments to the tow truck driver?
1800

1801 A: Um, well he just towed my car.
1802
1803 Q1: Okay.
1804
1805 Q: Okay. What'd...
1806
1807 A: Yeah.
1808
1809 Q: ...you say to him?
1810
1811 A: I was like, "What are you doing here? I didn't call a tow truck and all that
1812 other stuff." And then he waited there for me to do the sobriety test and all
1813 that. And then, basically, um, I did the nine forward, (unintelligible) nine
1814 back...
1815
1816 Q: No.
1817
1818 A: ...and all that. Then he says, "Well you're under arrest for a DUI." And I'm
1819 like, "Are you kidding me? I just passed your test." I was like, "Do you got a
1820 breathalyzer?" "No, I don't have one." I was like, "You don't?"
1821
1822 Q: Not on-scene they don't.
1823
1824 A: They're supposed...
1825
1826 Q1: Not always.
1827
1828 A: ...to have a portable one.
1829
1830 Q: No.
1831
1832 Q1: They don't have to.
1833
1834 Q: They don't have to.
1835
1836 A: No? Huh. Well...
1837
1838 ((Crosstalk))
1839
1840 Q1: 16...
1841
1842 Q: Most are inadmissible anyway.
1843
1844 Q1: 16...
1845

1846 A: Yeah, I know.
1847
1848 Q1: 16 years I've never carried one.
1849
1850 A: Really?
1851
1852 Q: So - so...
1853
1854 A: I have a keychain one.
1855
1856 Q: ...what did you say to - what'd you say to your, uh, to the tow truck driver?
1857
1858 A: Basically, I was like, "I didn't call you, why are you here?" "Well I'd seen
1859 you go off the road and all that." And I'm like, "Yeah." And then the State
1860 Trooper showed up and we - well he pulled up first before the State Trooper...
1861
1862 Q: Uh-huh.
1863
1864 A: ...okay? And we were talking and all...
1865
1866 Q: So maybe that's who ended up callin'.
1867
1868 Q1: Maybe.
1869
1870 Q: Maybe he saw you go off the road and called.
1871
1872 A: Yeah. 'Cause he just got done towing me because it blew the head gasket and
1873 all that other stuff.
1874
1875 Q: Uh-huh.
1876
1877 A: Just, um, east of Tucson. Coming back it was just two...
1878
1879 Q: Well...
1880
1881 ((Crosstalk))
1882
1883 A: ...pass, you know, you have the exit and back to - it's a...
1884
1885 Q: Where'd he drop the vehicle off at?
1886
1887 A: My house.
1888
1889 Q: At your house?
1890

1891 A: Yeah.
1892
1893 Q: Is there a chance that he knew that maybe you'd had a little bit to drink?
1894
1895 A: Hm, probably not.
1896
1897 Q: No?
1898
1899 A: No.
1900
1901 Q: Did you ride in his tow truck with him home?
1902
1903 A: Yeah, that day when he picked up my car.
1904
1905 Q: Yeah.
1906
1907 Q1: How many days - that's been before last night though?
1908
1909 A: Yeah, that was, like, two days before.
1910
1911 Q: Oh, oh, okay.
1912
1913 A: Yeah.
1914
1915 Q: Okay, obviously.
1916
1917 A: Yeah - no, not that night, no. It was two days before.
1918
1919 Q: Okay.
1920
1921 A: And then I just got the car running again, the head gasket...
1922
1923 Q: Oh.
1924
1925 A: ...and all that, that's why it friggin' went off into the ditch. I'm like,
1926 "Goddamn car."
1927
1928 Q: The - yeah. Okay. So did - did you at any time threaten the tow truck driver?
1929
1930 A: No.
1931
1932 Q: So if he told me that you did, that's a lie?
1933
1934 A: Yeah.
1935

1936 Q: Why - why do you think he would have the benefit for lyin' about that?
1937
1938 A: Probably my car, 'cause he said, "You have a lot of money in this car," when
1939 he took it the first time.
1940
1941 Q: He doesn't get that car, bro, it's not the way that works.
1942
1943 A: No?
1944
1945 Q1: No, 'cause you sent your wife down there to go get the car out of impound as
1946 soon as they're done with it.
1947
1948 A: Yeah.
1949
1950 Q1: It has to be at his shop for over 30 days before they can even apply for
1951 abandonment title.
1952
1953 A: Yeah.
1954
1955 Q: So you never at any point in time said that you were gonna shoot him?
1956
1957 A: No. Why would I shoot a tow truck driver? That's just...
1958
1959 Q: I don't know, but, again, that's...
1960
1961 A: That's just...
1962
1963 Q: ...just weird. That's what I'm bein' told.
1964
1965 A: No. What a fuckin' jerk.
1966
1967 Q: Okay.
1968
1969 A: And I go - then I put my application and worked for his ass all night.
1970
1971 Q: Oh were you?
1972
1973 A: Yeah. I said, "Go get my health card."
1974
1975 Q: All right, how so?
1976
1977 A: He needs - he needs seven people down there, yeah. Wow. Shoot him with
1978 what? A 25? I couldn't even hit that can right here. The fuckin' thing's an old
1979 piece of shit. It's just a cap gun to scare - well, basically, a tweaker deterrent
1980 that I put in there for my wife, 'cause she works in Tucson, so...

1981
1982 Q: Yeah.
1983
1984 A: ...other than that.
1985
1986 Q: So you're - you're a gun enthusiast...
1987
1988 ((Crosstalk))
1989
1990 Q: ...huh?
1991
1992 A: Yeah.
1993
1994 Q: And - and...
1995
1996 A: Uh...
1997
1998 Q: ...you do - you like to do some huntin'?
1999
2000 A: Huntin', I do, um, I think the oldest gun I have is a Winchester .22 from 1835.
2001
2002 Q: A .22?
2003
2004 A: Uh-huh. Single-shot, basically, you just (unintelligible)...
2005
2006 Q: Mm-hm.
2007
2008 A: ...and you just pull it back...
2009
2010 Q1: Yeah.
2011
2012 A: ...put a .22 short, long or mag in it, close it. And the funny thing is, you know
2013 how you have those keyrings, where you put keys on?
2014
2015 Q: Mm-hm.
2016
2017 Q1: Yeah.
2018
2019 A: There's one, like, that, but it's an old steel one that's on it, pull it back to arm
2020 it.
2021
2022 Q: Yeah.
2023
2024 A: Yeah. It was a pretty cool little gun.
2025

2026 Q: Yeah.

2027

2028 A: It's just not really good for - if you're goin' for a rabbit, or...

2029

2030 Q: Or...

2031

2032 ((Crosstalk))

2033

2034 A: Yeah.

2035

2036 Q1: What - what about you've got some deer rifles, or anything like that?

2037

2038 A: Yeah, a 243, some 12-gages, some other handguns.

2039

2040 Q: What kinda handguns? You said you've got a 40-cal?

2041

2042 A: I have a 40-cal, and my other shotgun .22 rifle and my other Taurus 45-70

2043 I've been tryin' to get back from the Sheriffs for over a year and a half.

2044

2045 Q: Why do they have it?

2046

2047 A: For that DV crap, and then...

2048

2049 Q: Oh.

2050

2051 A: ...it dropped down, and I got my rights back, and - yeah, but, you know, they
2052 have to take...

2053

2054 Q: What about...

2055

2056 A: ...their time.

2057

2058 Q: Have you - have you, uh, have you gone out and gotten a fad and gotten any
2059 AR15s, or anything like that?

2060

2061 A: Uh, that's a glorified .22, yeah.

2062

2063 Q: Okay.

2064

2065 A: I'm good with that. My brother bought one and all that, 'cause he just got out
2066 of the Marines and all that. I was like, "Why'd you buy that? That's a .22."

2067 But so is my 243, so I couldn't say much. His is auto and mine's bolt action,
2068 so he...

2069

2070 Q: Yeah.

2071
2072 A: I couldn't really say much.
2073
2074 Q: Okay.
2075
2076 A: Yeah.
2077
2078 Q: Well, Matt, um, you understand what your charges are?
2079
2080 A: Mm-hm.
2081
2082 Q: Um, I think we're pretty much done, unless you've got any other questions?
2083 Uh, you good?
2084
2085 A: Mm-hm.
2086
2087 Q: Okay. I'm just gonna have you sit back there in your cell.
2088
2089 A: Did you get ahold of him with my glasses, or...
2090
2091 Q: Uh, no, no, we're gonna go do that right now.
2092
2093 A: Yeah, and then when I get out I need to go to the hospital, 'cause they didn't
2094 do, uh, shit.
2095
2096 Q: Well we talked to the doctor and he said you're medically cleared.
2097
2098 A: Yeah, medically, but not fucking fucked up, you know.
2099
2100 Q1: Yeah.
2101
2102 Q: Well, unfortunately, you're - you're demeanor...
2103
2104 A: Yeah.
2105
2106 Q: ...they weren't - they weren't able to leave you there just because...
2107
2108 A: Yeah.
2109
2110 Q: ...uh, again, they have other customers...
2111
2112 A: Yeah.
2113
2114 Q: ...besides you, right?
2115

2116 A: Yeah.
2117
2118 Q: Other patients.
2119
2120 A: 'Cause my hand is swollen.
2121
2122 Q: Yeah.
2123
2124 A: Straight across?
2125
2126 Q: Yep, straight across.
2127
2128 A: Ah, and I've got this sharp little pain in - in my rib. I don't know if that one's
2129 cracked or not. Well it's not real bad.
2130
2131 Q: Okay.
2132
2133 A: Can I get some more coffee, or no?
2134
2135 Q: Uh, we can.
2136
2137 Q1: Coffee?
2138
2139 Q: Yeah.
2140
2141 Q1: Yep.
2142
2143
2144 The transcript has been reviewed with the audio recording submitted and it is an accurate
2145 transcription.
2146 Signed _____
2147



ARIZONA DEPARTMENT OF PUBLIC SAFETY

IV. INTERVIEWS

DR NUMBER:

AZ1800238888

1. Trooper Joshua Marotto, #10462
2. Trooper Allen Hernandez, #10307
3. Trooper Bobbie Woolley, #6519
4. Trooper Brent Haymore, #7670
5. Sergeant Brian Summerfield, #5709
6. Matthew Menard, *Suspect*
7. Christopher Frontroth, *witness*

Relevant statements for the for the following witnesses can be found in the supplemental reports authored by Detectives Deskins and Boothe:

8. Trudy Marks, *witness*
9. Julie Qashu, *witness*
10. Gary Edwards, *witness*
11. Dr. Ryan Howard, *witness*
12. Constance Proulx, *witness*
13. Dena Welch, *witness*
14. Anita Paxton, *witness*
15. David Bills, *witness*

Follow-up interviews were conducted with Trudy Marks, #8, and Dena Welch, #13. Please see the investigative report for further details regarding their statements.

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY

V. SUPPORTIVE DOCUMENTS

DR NUMBER:	AZ1800238888
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1. Wunderground.com Weather Report for June 10, 2018
2. Hospital Search Warrant
3. Not-to-scale diagram completed by Capt. B. Buller
4. DPS Inbound Evidence Receipt
5. AZ1800240560 Report Completed by Det. Deskins
6. Certified State of California Felony Conviction for Menard
7. eTrace Firearms Trace Reports
8. DPS Firearms Examination Memorandum
9. DPS Computer Aided Dispatch (CAD) Log
10. Toxicology Report for Menard
11. DPS Firearms Examination Memorandum for AZ1800240560
12. DPS Firearms Analysis Report for items #RJO2, #RJO4 and #RO8.

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sergeant Robert Phillips, #6284



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SCIENTIFIC EXAMINATION REPORT

DR NO. 2018030666

Page 1 of 1

AGENCY Arizona Department of Public Safety

AGENCY NO. 2018030666

OFFICER SUMMERFIELD, #5709

DATE June 27, 2018

NAME(S) MEDNARD, MATHEW J.



EXAMINATION REQUESTED

Alcohol Analysis

ITEMS

BW1.A. Blood Specimen labeled "MATHEW MENARD"

RESULTS / INTERPRETATIONS

BW1.A. Analysis of the specimen showed it to contain 0.049 ± 0.003 grams of ethanol per 100 mL of blood.

The specimen has been forwarded to drug toxicology for additional testing. If additional testing is not required, please notify the laboratory.

SETH RUSKIN, #6037, Forensic Scientist
Southern Regional Crime Laboratory
2525 East Valencia Rd., Tucson, AZ 85706
520-746-4552

For quantitative values, the uncertainty of the concentration is given at a level of confidence greater than 99.73%.



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SCIENTIFIC EXAMINATION REPORT

DR NO. 2018030666

Page 1 of 1

AGENCY Arizona Department of Public Safety

AGENCY NO. 2018030666

OFFICER SUMMERFIELD, #5709

DATE July 25, 2018

NAME(S) MEDNARD, MATHEW J.



EXAMINATION REQUESTED

Drug Screen

ITEMS

BW1.A. Blood specimen labeled "Mathew Menard"

RESULTS / INTERPRETATIONS

BW1.A. The following preliminary test results were obtained:

Methamphetamine / MDMA	Not Detected
Barbiturates	Not Detected
Benzodiazepines	Not Detected
Cannabinoids	Not Detected
Cocaine Metabolite	Not Detected
Opiates	Not Detected
Carisoprodol	Not Detected
Methadone	Not Detected
Zolpidem	Not Detected

Dana Gilmore

For quantitative values, the uncertainty of the concentration is given at a level of confidence greater than 95.45%.

DANA GILMORE, #7236, Reporting Forensic Scientist
Southern Regional Crime Laboratory
2525 East Valencia Rd., Tucson, AZ 85706
520-746-4577

Laboratory System Accredited by the ASCLD/LAB - International (ISO)

Any notes, photographs, charts, or graphs generated during the examination are retained in the laboratory.



ARIZONA DEPARTMENT OF PUBLIC SAFETY

ARREST NARRATIVE REPORT

Case Number

2018-030666

Date / Time of Report

6/10/2018

02:28 Hrs

NARRATIVE

Initial Contact:

On 06/10/18 at approximately 0229 hours, I responded to a report of a vehicle that went off the road and into a ditch in the area of Interstate 10 Exit 297. I located the vehicle on the north frontage road which is Meadowlark Lane. It had ran up over a curb and into some mesquite trees on the north side of the road. There was a tow truck parked in the west bound lane just east of the vehicle and two subjects walking around the scene. I pulled onto the dirt shoulder on the south side of the road and exited my vehicle. One of the subjects, later identified as Matthew Menard, DOB [REDACTED] approached me and met me in the middle of the road. I asked him if he was the driver and he stated, "Yes", and informed me that he had just turned the corner and the vehicle all of a sudden just pulled left. I immediately detected on odor of alcohol coming from his breath when he talked and noticed he had blood shot, watery eyes and a flushed look on his face. I asked Menard if he had drank any alcohol that night and he stated, "No". I informed him that I could smell a strong odor of alcohol on his breath and he then stated he had a couple drinks a lot earlier in the evening and it was Tequila, so it smelled strong. I asked him if I could preform a test on his eyes to see if he was fine to be driving. Menard agreed to let me perform a test on his eyes.

Horizontal Gaze Nystagmus:

Prior to beginning the test, I asked Menard if he had any problems with his eyes, besides needing to wear glasses which he had on. He stated "No". I had him remove his glasses for the test. I had to explain the test several times and remind him to keep his head straight during the test. I observed six out of six clues of HGN during the test. Menard continued to look up while checking for vertical nystagmus, so I was not able to see if he had vertical nystagmus.

Walk and Turn:

After completing HGN, I asked Menard if he would perform some other tests for me. H agreed but stated he did not know why because he was not drunk. He also stated he had a bad knee. I informed him that would be fine and I would make a note of that. During the walk and turn test, I observed seven out of eight clues for the test. After putting Menard in the stance for the instruction phase, he began to walk prior to me completing the instructions. He also lost his balance and stepped to his right. I had him return to the stance for the instructions. He indicated he understood the instructions prior to beginning. Menard did not touch heel to toe on any of the steps with a minimum of 1 1/2" between his feet on each step. He stepped off the line to the right on the fourth step in the first direction and stepped back on the line and stood there until i told him to continue. Menard took eleven steps in the first direction and six in the second direction at which time he grabbed his knee and I had him stop the test. He had also stepped off the line to his right on the fourth step also. Menard stated his knee hurt so I did not have him perform any more tests.

Arrest:

I advised Menard that he was under arrest for DUI and he stated he was not drunk and that i had messed the tests up. I grabbed Menard's left wrist to place hhim into custody and he began to struggle and resist arrest. As I tried to gain control of his arm he continued to struggle and tried to grab me, so I took him to the ground. I advised him to quit resisting and that he was under arrest again. The tow truck driver that was on scene assisted me be holding his right arm. I informed Menard he would be tasered if he did not stop resisting and he continued to yell and struggle to get loose. I ended up deploying both of my Taser cartridges and Menard, who was laying on his back rolled toward his stomach and I was able to get his hands behind his back and cuffed with the help of the tow truck driver.

Blood Daw:

Menard stated he need an ambulance once he was taken into custody, so I called for one through my dispatcher. Once Trooper Haymore arrived on scene, We got Menard up and went to take him to Trooper Haymore's car to secure him in the back. He struggled and kicked twice while being escorted to the car and had to be taken back to the ground. He was placed in Trooper Haymore's vehicle until the ambulance arrived. He was transported to the Benson Hospital and while I was outside the hospital working on a search warrant for a blood sample, Menard tried to get out of the hospital and struggled with a Trooper in the hospital and discharged his weapon. Once cleared by the doctor, Menard was transported to the Benson Police Department and held there. Due to the incident at the hospital, the time was delayed for a search warrant to be obtained. Once a search warrant was obtained for a blood sample, Trooper B. Woolley obtained two test tubes of blood from Menard while at the Benson Police Department at 0936 hours. The blood sample was placed into evidence and sent to the Arizona Department of Public Safety's Lab in Tucson for analysis. Test results are pending. Menard was transported and booked later at the Cochise County Jail in Bisbee by Trooper Lee #10262. The charges for the DUI are pending the blood results and Menard was booked on charges from the incident at the hospital.

Reporting Officer SUMMERFIELD, BRIAN		Badge Number 05709
Accept Date 6/25/2018	Supervisor SUMMERFIELD, BRIAN	Badge Number 05709

Arizona Department of Public Safety
Special Investigations Unit
2339 N 20th Ave.
P.O. Box 6638 Phoenix, Arizona 85005 (Mail drop 3011)
602-223-2251, Fax 602-223-2332



July 12, 2018

Attn: Victorville Clerk

The Arizona Department of Public Safety is respectfully requesting **certified copies** of the minutes orders for the case listed below to assist with an attempted murder/weapons violation investigation:

- 1. Court Case Number: FBA007265**
Subject: Matthew Joseph Menard
Date of birth:
Charges: Burglary, grand theft, tampering with identification marks on a firearm, and receiving known stolen property.

I am specifically looking for documentation stating the disposition on charge 4 with firearm restriction being a condition of probation and any other court case that would prohibit this individual from possessing a firearm.

Would you please email the results to KNeese@azdps.gov or fax to 602-223-2332.

Should you have any questions, please call me at 602-223-2551 or Lead Detective Valdez at 480-416-9438.

Thank you,

Kelsey Neese #7841

Intelligence Research Specialist
Arizona Department of Public Safety
ACTIC Intelligence Division
Vehicle Theft Investigations | General Investigations Unit
Office: (602) 223-2251
Mobile: [REDACTED]
Fax: (602) 223-2332
KNeese@azdps.gov
Agency ORI: [REDACTED]
Arizona DPS ORI: [REDACTED]

RECEIVED
JUL 20 2018

BARSTOW COURT

RECEIVED

JUL 16 2018

VICTORVILLE DISTRICT

conceal, sell, withhold, and aid in concealing, selling, and withholding property, to wit, personal property, which had been stolen and obtained by extortion, knowing that said property had been stolen and obtained by extortion.

COUNT 3

On or about April 19, 2003, in the above named judicial district, the crime of GRAND THEFT AUTO, in violation of PENAL CODE SECTION 487(d)(1), a felony, was committed by Matthew Joseph Menard and Jefferson Thomas Johnson, who did unlawfully take an vehicle, to wit: a motorcycle.

COUNT 4

On or about April 19, 2003, in the above named judicial district, the crime of OBLITERATING THE IDENTIFICATION OF A FIREARM, in violation of PENAL CODE SECTION 12090, a felony, was committed by Matthew Joseph Menard and Jefferson Thomas Johnson, who did unlawfully change, alter, remove, and obliterate the name of the maker, model, manufacturer's number, and other mark of identification upon a certain firearm, to wit, handguns and long guns, without first having secured written permission from the Department of Justice to make such change, removal, and obliteration.

* * * * *

NOTICE TO DEFENDANT AND DEFENDANT'S ATTORNEY

Pursuant to Penal Code Sections 1054.5.(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

NOTICE TO ATTORNEY

The materials accompanying this notice may include information about witnesses. If so, these materials are disclosed to you pursuant to Penal Code section 1054.2 which provides: "No attorney may disclose or permit to be disclosed to a defendant the address or telephone number of a victim or witness whose name is disclosed to the attorney pursuant to subdivision (a) of Section 1054.1 unless specifically permitted to do so by the court after a hearing and a showing of good cause."

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant(s) Matthew Joseph Menard , Jefferson Thomas Johnson , for the above-listed crimes.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 4 COUNT(S).

Executed at Barstow, California, on April 22, 2003.



DECLARANT AND COMPLAINANT

Agency: Barstow Sheriff Station

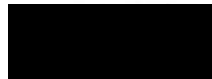
Prelim Est. 00:00

Defendant

Matthew Joseph Menard

Jefferson Thomas Johnson

Birth Date



Booking No.

0304080164

0304080163

CII No.

A23302943

A11639189

NCIC

THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF PAGE(S) 12 &
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE

ATTEST

Clerk of the Superior Court of the State of California
in and for the County of San Bernardino

Date



Page 3

Complaint DA CASE NO: 2003-00-0020767

VERONICA E. SAUCEDA

By Veronica E. Saucedo

Date JUL 20 2018

Clerk of the Superior Court of the State of California
in and for the County of San Bernardino



ATTEST
NANCY CS EBERHARDT
THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF 3 PAGE(S), IS A
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT, 235 E MOUNTAIN VIEW, BARSTOW, CA 92311

PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff)

C O M M I T M E N T

vs.)

MATTHEW JOSEPH MENARD

Defendant)

Case No: FBA007265

AKA: DOB: [REDACTED]

CHARGES: 2) 496(A) PC-F

DATE: 05/28/03

JUDGE JAMES M DORR

DEPT: B4

TO: SHERIFF, COUNTY OF SAN BERNARDINO

Defendant herein, having been convicted of the offense(s) described above, I do certify that upon such conviction, judgment was duly entered in the records of this court as follows:

Serve 270 days in a San Bernardino County Jail facility, with credit for time served, a matter of 40 days, plus conduct credit pursuant to PC4019 and abide by all rules without the possibility of county parole.

THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED CONSISTING OF PAGE(S) 21
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE

ATTEST
Clerk of the Superior Court of the State of California
in and for the County of San Bernardino



I certify the foregoing is a true copy of the order rendered on
05/28/03 by the above-named Judge. CLERK/Administrator:
Deputy

05/28/03

VERONICA E. SAUCEDA

By Veronica E. Sauteda

Date JUL 20 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino



ATTEST
NANCY CS EBERHARDT
THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF 1 PAGE(S), IS A
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT

FILED - BARSTOW
SAN BERNARDINO COUNTY
SUPERIOR COURT

MAY 1 2003

By Carel Thau
Deputy

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

Matthew Menard
Defendant

Case No. FBA 007265

DECLARATION BY DEFENDANT

☒ Under Penal Code Section 859a

☐ Re: Change of Plea (Guilty)

1. My true name is Matthew Menard, born [REDACTED]
2. The Complaint filed herein accuses me of the offense(s) of:
PC 452, 496(a), 497(d)(1), PC 2690

3. I desire to change my plea(s) and plead guilty/nolo contendere (no contest) to (and admit the following enhancement(s) or prior(s)): Including lesser offense(s) to which plea to be made and the maximum sentence.)

43A 3.

Count(s)	Code Section	Name of Offense/Enhancement/Prior	Sentencing Range
<u>2</u>	<u>PC 476(a)</u>	<u>Receiving stolen property</u>	<u>16 mos, 2 yrs, 3 yrs SD</u>
Count(s)	Code Section	Name of Offense/Enhancement/Prior	Sentencing Range
Count(s)	Code Section	Name of Offense/Enhancement/Prior	Sentencing Range
Count(s)	Code Section	Name of Offense/Enhancement/Prior	Sentencing Range
Count(s)	Code Section	Name of Offense/Enhancement/Prior	Sentencing Range

4. a. I understand that the law allows me to enter a guilty plea to a magistrate, but that as soon as I do so, my case will be transferred to the superior court, which will then have complete control over every aspect of it.

43A 4a.
For 859a Only

- b. I further understand that even after I plead guilty, I will retain my right to be released on reasonable bail, but that all questions concerning bail will be determined by a judge of the superior court.

43A 4b.
For 859a Only

5. I understand that as to each charge, prior conviction, and/or enhancement alleged against me in this case, I have many rights, including the constitutional right to:

- a. A speedy and public trial by jury or by a judge without a jury;

43A 5a.

- b. Be represented by an attorney at trial and at all stages of the proceeding; and if I cannot afford an attorney, the court will appoint an attorney to represent me at no charge. However, a judge may later direct me to pay such part of the cost of the attorney as the judge determines that I am able to pay;

43A 5b.

- c. See, hear, and question all witnesses who testify against me at trial;

43A 5c.

- d. Have the judge order into court all the evidence and order my witnesses to attend the trial without cost to me;

43A 5d.

- e. Present evidence in my favor at trial;

43A 5e.

- f. Remain silent at trial, or, if I wish, testify for myself; and

43A 5f.

- g. (If applicable) A preliminary hearing at which the district attorney would have to show that there was sufficient cause that I had committed the offense(s), and the right at such hearing to be represented by an attorney, to see, hear, and question all witnesses who testify against me, and to present evidence in my favor if I so desire, and to either testify or remain silent.

43A 5g.
For 859a Only

6. a. I understand that in addition to any other punishment, I shall be required to pay a mandatory restitution fine of not less than \$200 nor greater than \$10,000 and subject to a penal fine up to \$10,000 (\$20,000 for Health & Safety Code §§ 11350-11353, 11355, 11359-11361 or \$50,000 for Health and Safety Code § 11379.6 or Arson, Penal Code §§ 451-455) whether probation is granted or denied.

43A 6a.

- b. Any state prison commitment will be followed by a period of PAROLE of 3 to 4 years, 5 to 7 years, or life. Any violation of the terms of parole could result in up to an additional year in custody for each violation, up to a maximum of 4 years. 2 years or life (Circle appropriate parole)

43A 6b.

- c. IF I am found to be addicted to the use of narcotics or in the imminent danger of becoming so addicted, I may be committed to the Department of Corrections Narcotic Rehabilitation Program for a period of time equal to that which I would otherwise have to spend in state prison.

43A 6c.

- d. IF I plead guilty to any drug offense covered by Health & Safety Code Section 11580, I will be required to register as a controlled-substance offender with the chief of police of the city in which I reside or the sheriff of the county if I reside in an unincorporated area.

43A 6d.

- e. IF a motor vehicle is found to be involved in or incidental to the commission of the offense, my driving privileges may be revoked by the court and/or Department of Motor Vehicles.

43A 6e.

1. If I plead guilty to any sex crime covered by Penal Code Section 260, I will be required to register as a sex offender with the chief of police of the city in which I reside or the sheriff of the county if I reside in an unincorporated area. ☒ 6f.
- g. Federal and state law prohibit a convicted felon from possessing firearms. ☒ 6g.
7. As to each crime, enhancement, and/or prior conviction, I now intend to plead guilty/nolo contendere (no contest) and/or admit to:
- a. I waive and give up each of the above constitutional rights listed in paragraph 5. ☒ 7a.
8. a. I understand that the court will not decide whether to impose sentence or extend probation until a probation officer conducts an investigation and reports on my background, prior record (if any), and the circumstances of the case. ☒ 8a.
- b. I understand that if I am now on probation/parole, my plea of guilty/nolo contendere (no contest) in this case may constitute a violation of my probation/parole and result in its revocation and the imposition of sentence. ☒ 8b.
9. I am freely and voluntarily entering the plea(s) of guilty/nolo contendere [and admission(s)] as indicated:
- a. Because I am guilty (and for no other reason), and/or ☒ 9a.
- b. As a result of plea bargaining after discussing with my attorney the possibility of my being convicted on other or more serious charges and/or risking the possibility of a longer sentence, and/or ☒ 9b.
- c. Because the ☒ district attorney/ ☒ court has agreed to: ☒ 9c.
- A grant of probation with 270 days as a term of probation*
10. My attorney has explained to me that other possible consequences of this plea and any admission of any enhancement(s) and/or any prior conviction(s) may be: (Circle applicable consequences.) ☒ 10.
- (a) Mandatory/presumptive prison sentence ☒ Loss of driving privileges
- (b) Increased punishment for future felonies (g) Registration as an arson offender
- (c) Serious/violent felony ("strike") (h) Required to submit to HIV test
- (d) Reduced earning of custody credits (i) Civil/asset forfeiture consequences per H&S 11469, et seq.
- (e) Sexual Violent Predator Act (j) Other: _____
11. Except as otherwise stated herein, no one has promised or suggested to me that I will receive a lighter sentence, probation, reward, immunity, or anything else to get me to plead guilty/nolo contendere (no contest) as indicated. ☒ 11.
12. No one has used any force or violence or threats or menace or duress or undue influence of any kind on me or anyone dear to me to get me to plead guilty/nolo contendere (no contest) as indicated. ☒ 12.
13. I am not now under the influence of alcohol, or of any drugs, narcotics, medicine, or any other substance which could interfere with my ability to understand what I am doing; nor am I suffering from any condition which could have that effect. ☒ 13.
14. I understand that if I am not a citizen of the United States, deportation, exclusion from admission to the United States, or denial of naturalization may result from a conviction of the offense(s) to which I plead guilty/nolo contendere (no contest). ☒ 14.
15. a. I understand that even though the court may approve the agreement for sentence set forth, the court is not bound by the agreement, and that the court may withdraw its approval at any time before pronouncement of judgment, in which case I shall be able to withdraw my plea should I desire to do so. ☒ 15a.
- b. I also understand the agreement for sentence set forth herein is expressly conditioned upon the representations made to the court re: the facts of my case and my background. I understand that if the probation report reveals facts about my case or facts about my background materially different from what has been reported to the court, the court will no longer be bound by the agreement and may then sentence me based upon the actual facts [per *People v. Jackson* (1980) 103 Cal App.3d 635]. ☒ 15b.
- c. I understand that any agreement as to sentence applies only in the original sentence and that a violation of probation may cause the court to send me to county jail or state prison for the maximum term provided by law. ☒ 15c.
- d. (Harvey Waiver) I waive my rights regarding dismissed counts and any charges the district attorney agrees not to file to the extent that the court may consider these factors in deciding whether or not to grant probation and in deciding whether or not to impose a midterm, aggravated, or mitigated prison term, and as to restitution. ☒ 15d.
16. Cruz Waiver (if applicable) I understand I have an absolute right under California law to withdraw my plea if the court, for any reason, does not follow the plea bargain agreement. I also understand that I cannot receive any additional penalty or punishment for any subsequent failure to appear or any new offense unless I am properly charged and convicted of such an offense. I understand and agree as part of this plea bargain agreement to be released upon my own recognizance and to waive these rights, and as a condition of my release, I will ☒ 16.
- a. Report to the probation department as ordered by the court ☒ 16a.
- b. Keep any appointment(s) set by the probation department. ☒ 16b.
- c. Appear in court for sentencing, or any other date set by the court. ☒ 16c.
- d. Not violate any law (excluding infractions) between today and the date of sentencing. ☒ 16d.
- e. Submit to Bravo search terms ☒ 16e.
- f. ☒ 16f.

- g. If I violate any of the above conditions in paragraph 16a-16f, I then agree the court will no longer be bound by this plea bargain and I would not have any right to withdraw my plea. I further understand and agree that any willful violation of these terms will be decided by the sentencing judge without a jury and by a preponderance of the evidence. I further understand and agree, that if the court finds any willful violation of these terms, the court will be free to impose any greater sentence than expressly stated in this agreement, up to the maximum penalty for each offense and enhancement to which I am pleading guilty/no contest or admitting, and I will not have any right to withdraw my plea.
17. **Vargas Waiver (if applicable)** I understand that I am being sentenced today pursuant to the initial terms stated in paragraph 9. If I comply with the conditions set forth in numbers 16a, 16b, 16c, 16d, 16e and 16f, and any other terms as ordered, the court will resentence me pursuant to the remainder of the terms described in paragraph 9.
18. **(Arbuckle Waiver)** I understand that I have the right to be sentenced by the judge who accepted my plea, but I agree that any judge of the superior court may impose sentence in this case.
19. I have had sufficient time to consult with my attorney concerning my intent to plead guilty/no contest to the above charge(s) (and admit any prior conviction or enhancement). My lawyer has explained everything on this declaration to me, and I have had sufficient time to consider the meaning of each statement. I have personally placed my initials on certain boxes on this declaration to signify that I fully understand and adopt as my own each of the statements which correspond to those boxes.
20. I waive and give up any right to appeal from any motion I may have brought or could bring and from the conviction and judgment in my case since I am getting the benefit of my plea bargain.
21. a. I can read and understand English.
OR
b. I cannot read/understand English, but I have had the assistance of an interpreter to read this form to me and I now understand all the contents of this form.
22. (If applicable) I understand that a plea of no contest is the same as a plea of guilty in this criminal case and for all purposes has the same consequences as a plea of guilty and can be used against me in a civil lawsuit.

☒ 16g.

☒ 17.

☒ 18.

☒ 19.

☒ 20.

☒ 21a.

☒ 21b.

☒ 22.

I declare under the penalty of perjury that the foregoing is true and correct and that I am signing this declaration on 5/1, 19 03 at BARSTOW, California.

Milton M. [Signature]
Defendant's Signature

CERTIFICATE OF INTERPRETER: I declare under the penalty of perjury that I translated the entire contents of this form from English to _____ (language) in the presence of and directly to the defendant in this case and that said defendant in this case subscribed to this document in my presence.

Date

Interpreter's Signature

ATTORNEY STATEMENT: I, John J. Sullivan, state that I am above-named defendant's attorney in the above-entitled criminal action; that I personally read and explained the contents of the above declaration to the defendant; that I personally observed the defendant sign said declaration; that I concur in the defendant's withdrawal of his/her plea(s) of not guilty; and that I concur in the defendant's plea(s) of guilty/nolo contendere (no contest) and/or admissions to the charge(s) as set forth by the defendant in the above declaration.

5/1/03
Date

John J. Sullivan
Attorney for Defendant

5-1-03
Date

Approved: [Signature]
Deputy District Attorney

ORDER

(Read these findings orally into the record)

After directly examining the defendant, the court finds

- ☒ 1. The defendant has read and understands the **DECLARATION BY DEFENDANT**
☒ PURSUANT TO PENAL CODE SECTION 859A ☐ RE CHANGE OF PLEA (GUILTY)
- ☒ 2. That the defendant understands the nature of the crime(s) charged against him/her and the consequences of his/her guilty/nolo contendere plea(s) (and admissions).
- ☒ 3. That the defendant understandingly and intelligently waives his/her constitutional rights.
- ☒ 4. The defendant is personally and orally entering his/her plea of guilty/no contest (and admission(s)) to the offense(s).
- ☒ 5. That the defendant's plea(s) of guilty/no contest (and admission(s)), is/are free and voluntary
- ☒ 6. That a factual basis exists for the plea(s) of guilty (and admission(s)), and/or that the plea bargain is hereby approved
- ☒ 7. That the defendant personally waives his/her right to have his/her probation hearing and pronouncement of judgment within 20 court days
- ☒ 8. (For 859a only) Plea confirmed in superior court.

It is ordered that this Declaration by Defendant be received and filed with the court's records of this case and that the defendant's plea(s) of guilty/no contest (and admission(s)) be accepted and entered in the minutes of this court.

Dated this 1st day of May, 20 03.

Deputy [Signature] By

[Signature]
Judge

- ☐ Forthwith sentence
☒ Pronouncement of judgment will be set on 5/28/03 at 8:30 a. m. in Department B4
☐ Resentencing (Vargas) will be set on _____ at _____ m. in Department _____

VERONICA E. SAUCEDA

By Veronica E. Saucedo

Date JUL 20 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino.



ATTEST

THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF 3 PAGE(S), IS A
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE.
NANCY CS EBERHARDT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT 235 E MOUNTAIN VIEW BARSTOW, CA 92311

PEOPLE OF THE STATE OF CALIFORNIA,) Plaintiff)

C O M M I T M E N T
P E N D I N G

vs.)

Case No: FBA007265

MATTHEW JOSEPH MENARD

) Defendant)

AKA:

DOB:

CHARGES: 1) 459 PC-F, 2) 496(A) PC-F, 3) 487(D)(1) PC-F, 4) 12090 PC-F

DATE: 04/22/03

JUDGE THOMAS D GLASSER

DEPT:B5

TO: SHERIFF, COUNTY OF SAN BERNARDINO

You are hereby ordered to receive said defendant forthwith into your custody and detain said defendant until legally discharged.

Bail set at \$50000.00.

DEFENDANT ORDERED TO RETURN ON:
DATE: 04/29/03 TIME: 9:00 am DEPT: B4
FOR: PRE-PRELIMINARY CONFERENCE

I certify the foregoing is a true copy of the order rendered by the
above-named Judge. CLERK/ADMINISTRATOR:

Date _____
By: _____ (seal)

By: S HAMBLET, Deputy Clerk

VERONICA E. SAUCEDA

Veronica E. Saucedo
Deputy

Date

JUL 28 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino.

ATTEST NANCY CS EBERHARDT

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ON FILE AND OF RECORD IN MY OFFICE.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

THE PEOPLE OF THE STATE OF CALIFORNIA <div style="text-align: center; margin-top: 50px;"> <i>Menard Matthew</i> Defendant </div>	Plaintiff	BARSTOW CENTRAL CHINO EAST MORONGO BASIN VALLEY VICTORVILLE WEST VALLEY OTHER	File No. _____ Case No. <u>FBA007265</u>
--	-----------	---	---

**WAIVER OF PERSONAL PRESENCE
ACKNOWLEDGMENT OF ADVISAL OF CONSTITUTIONAL RIGHTS
VIA TWO-WAY ELECTRONIC AUDIO-VIDEO SYSTEM**

- ☐ The defendant, having been advised of his/her right to be present at all stages, hereby waives his/her right to be physically present at this hearing and consents to a two-way audiovisual arraignment.

Defendant gives his/her true name as _____

- ☐ Defendant was informed of the charge(s) against him/her, his/her rights, of his/her right to the aid of counsel in every stage of the proceeding.

Acknowledgment of Advisal of Constitutional Rights signed, filed, and incorporated herein.

Defendant in this matter declares that he/she has been advised of the following constitutional rights and also makes the following waivers:

- ☐ a. The right to be tried by jury;
- ☐ b. The right to confront and to cross-examine all the witnesses against him/her;
- ☐ c. The right at the trial to present evidence in his/her favor and either to testify for him/herself or, if he/she wishes, he/she may remain silent;
- ☐ d. The right to a speedy and public trial;
- ☐ e. The right to have witnesses subpoenaed to testify in his/her behalf and to obtain all evidence which might exonerate the defendant;
- ☐ f. The right to have a qualified lawyer defend him/her at all stages of the proceedings; that said attorney may be of defendant's own choice or shall be court-appointed if the defendant is unable to afford counsel;
- ☐ g. The right to a preliminary hearing if charged with a felony within ten (10) days.
- ☐ h. Defendant also understands that if an attorney is appointed to represent him/her, at the conclusion of the criminal proceedings, the court will, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of the attorney. If the court determines that the defendant has such present ability, the court will order the defendant to pay all or part of such costs. Such an order will have the same force and effect as a judgment in a civil action and will be subject to execution, PC 987.8.
- ☐ i. That defendant understands if he/she is not a citizen, the conviction of the offense for which he/she is charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- ☐ j. I agree that any commissioner may also hear my case.
- ☐ k. I further understand that I have the right to be sentenced by the judge/commissioner who accepts my plea, but I agree that any judge or commissioner may impose sentence in this case.
- ☐ l. I understand that on a violation of probation I have a right to a formal hearing and have my attorney present, or if I do not have an attorney, and cannot afford an attorney, the court will appoint an attorney. However, for the purposes of the violation of probation, I waive my right to an attorney and my right to a formal hearing.

Defendant's current address and zip code _____

APR 10 2003
 Date



Signature of Defendant

I certify under penalty of perjury that I, _____, have advised this defendant of all rights referred to above.

Date

Signature of Attorney

VERONICA E. SAUCEDA

By Veronica E. Saucedo Deputy

Date

JUL 20 2008

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino.



ATTEST NANCY CS EBERHARDT

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31114337

DISPOSITION OF ARREST AND COURT ACTION

A. LAW ENFORCEMENT INFORMATION										FP CARD/CA NO	CF NO			
NAME (LAST FIRST MIDDLE) MEYARD, MATTHEW JOSEPH											A2330797			
DOB	RACE	SEX	AGE	ARRESTING AGENCY	BOOKING AGENCY	BOOKING DATE	CRIME REPORT NO	IN COUNTY WARRANT NO	D.L. NO					
01/19/03	M	M	23	SAN BERNARDINO SHERIFF	BARSTOW	01/19/03	000300767							
CHARGE 1 (SECTION CODE) PC 459					CHARGE 2 (SECTION CODE)					REMARKS				
CHARGE 3 (SECTION CODE)					CHARGE 4 (SECTION CODE)									
REASON FOR RELEASE					RELEASED DATE			OUT-OF-COUNTY WARRANT INFORMATION						
<input type="checkbox"/> 849(b)(1) PC: <input type="checkbox"/> COMPL. REFUSES TO PROS <input type="checkbox"/> ARRESTEE EXONERATED <input type="checkbox"/> FURTHER INVEST <input type="checkbox"/> ADMISS EVID INSUFF <input type="checkbox"/> ASCERT EVID INSUFF					<input type="checkbox"/> 849(b)(2) PC <input type="checkbox"/> 849(b)(3) PC <input type="checkbox"/> OTHER LAW ENFORCEMENT DISPOSITION (SPECIFY) <input type="checkbox"/> JUVENILE DISPOSITION (SPECIFY)			WARRANT NO ISSUING AGENCY MAJOR OFFENSE RELEASE DATE <input type="checkbox"/> RELEASED ON BAIL <input type="checkbox"/> EXTRADITION PROCEEDINGS <input type="checkbox"/> CITED AND RELEASED <input type="checkbox"/> RELEASED/ENROUTE TO OTHER AGENCY/JURISDICTION (SPECIFY)						
B. PROSECUTION INFORMATION		DATE		REASON FOR REJECTION				<input type="checkbox"/> 1203.2 PC - IN LIEU OF FILING		ORIG. COURT JUD DIS NUMBER				
				CHRG1	CHRG2	CHRG3	CHRG4	<input type="checkbox"/> REFILED - ORIGINAL CASE DISMISSED		ORIG. COURT CASE NUMBER				
C. COURT LOWER COURT		DATE FILED		L.C. JUD DIST NO		FILE NO		CONSOLIDATED FILE NO		TYPE OF TRIAL <input type="checkbox"/> COURT <input type="checkbox"/> JURY				
SUPERIOR COURT		DATE FILED		S.C. JUD DIST NO		FILE NO		CONSOLIDATED FILE NO						
TYPE OF FILING		<input type="checkbox"/> INFORMATION		<input type="checkbox"/> CERTIFICATION		<input type="checkbox"/> INDICTMENT		TYPE OF TRIAL		<input type="checkbox"/> JURY <input type="checkbox"/> COURT <input type="checkbox"/> TRANSCRIPT				
CHRG	FILE LEVEL	FIRST PLEA	FINAL PLEA	DISPOSITION				DISPO DATE	CHARGES AND ENHANCEMENTS AT DISPOSITION		DISPO LEVEL			
									SECTION/CODE/ALTERAL		17 PC			
1														
2														
3														
4														
D. ADMONISHMENTS AND WAIVERS										<input type="checkbox"/> RIGHT TO TRIAL BY JURY <input type="checkbox"/> PRIVILEGE AGAINST COMPULSORY SELF INCRIMINATION <input type="checkbox"/> RIGHT TO CONFRONT AND CROSS EXAMINE WITNESSES <input type="checkbox"/> CHARGES AND DIRECT CONSEQUENCES OF PLEA <input type="checkbox"/> DEFENDANT REPRESENTED BY COUNSEL				
<input type="checkbox"/> DEFENDANT WAS ADVISED AND UNDERSTOOD <input type="checkbox"/> DEFENSE COUNSEL CONCURRED IN DEFENDANT'S PLEA OR ADMISSION <input type="checkbox"/> COURT FOUND PLEA WAS KNOWLEDGEABLE, INTELLIGENTLY MADE AND VOLUNTARY <input type="checkbox"/> DEFENDANT WAIVED COUNSEL										<input type="checkbox"/> WAIVED <input type="checkbox"/> WAIVED <input type="checkbox"/> WAIVED				
E. SENTENCE INFORMATION				DATE OF SENTENCE				TRUE NAME						
CHRG	17 PC	NO	PRISN	JAIL	FINE	RESTN	JAIL OR FINE	COND	CONS	YOL	COSTS	CYA	PRISON SENTENCE INFORMATION	
													TOTAL FINE (ALL COUNTS)	STAYED INFORMATION (SPECIFY COURT)
1														
2														
3														
4														
CONDITION OF PROBATION										REMARKS				
<input type="checkbox"/> FIREARMS PROHIBITED														
F. CLERK OF THE COURT'S CERTIFICATION														
I CERTIFY THAT THE FOREGOING IS A CORRECT ABSTRACT OF THE DISPOSITION OF ARREST AND COURT ACTION IN THIS CASE														
PRINTED OR TYPED SIGNATURE AND TITLE										DATE AND COUNTY				
G. PROCEEDINGS SUSPENDED														
<input type="checkbox"/> LOCAL BENCH WARRANT ISSUED <input type="checkbox"/> LOCAL DETENTION <input type="checkbox"/> LOCAL 100% PC - NOT S.W. IN CASE <input type="checkbox"/> DEFERRED ENTRY OF JUDGEMENT										<input type="checkbox"/> LOCAL 300% PC - NARC COMM <input type="checkbox"/> LOCAL 100% PC - MENTAL INCOMPETENT <input type="checkbox"/> SC 1203.03 PC - 90 DAY OB <input type="checkbox"/> SC 707.2 PC - 90 DAY OB				

VERONICA E. SAUCEDA

By Veronica E. Saucedo Deputy

Date

JUL 20 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino

ATTEST

NANCY CS EBERHARDT

THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF 1 PAGE(S), IS A
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT
MINUTE ORDER

CASE NO: FBA007265

DATE: 05/28/03

CASE TITLE: PEOPLE OF THE STATE OF CALIFORNIA
vs.
MATTHEW JOSEPH MENARD

DEPT: B4 05/28/03 TIME: 8:30 am 859A PC SENTENCING

CHARGES: 2) 496(A) PC-F

JUDGE JAMES M DORR
Clerk C SIMPSON
Reporter C MATHES
Deputy District Attorney STEVE SINFIELD present.
Deputy Public Defender JOHN SULLIVAN present
Defendant present in custody.
Probation Officer P BOCKMAN present.

PROCEEDINGS

Court has read and considered Probation Officer's Report.
People wish to retain plea agreement.
Formal arraignment for Pronouncement of Judgment is waived; no
legal cause why Judgment should not now be pronounced.

PROBATION GRANTED

For all charges.

Supervised probation granted for a period of 36 months on
following Terms and Conditions:

THAT THE DEFENDANT SHALL:

- 01) Serve 270 days in a San Bernardino County Jail facility,
--- with credit for time served, a matter of 40 days,
--- plus conduct credit pursuant to PC4019 and abide by all rules
--- and regulations of the facility
--- without the possibility of county parole.
--- (40 actual plus 20 conduct days)
- 02) Violate no law.
- 03) Report to the Prob officer in person immediately upon release
--- from custody and thereafter once every fourteen (14) days or as
--- directed.
- 04) Cooperate with the probation officer in a plan of rehabilitation
--- and follow all reasonable directives of the probation officer.
- 05) Seek and maintain gainful employment, or attend school, and keep
--- the probation officer informed of status of employment, or
--- school.
- 06) Not leave the State of California without first obtaining
--- written permission of the probation officer.
- 07) Keep the probation officer informed of place of residence,

--- cohabitants and pets, and give written notice to the probation
--- officer twenty-four (24)

Case Number : FBA007265

People vs. MATTHEW MENARD

- hours prior to any changes. Prior to any move provide written
--- authorization to the Post Office to forward mail to the new
--- address.
- 08) Neither possess nor have under your control any dangerous or
--- deadly weapons or explosive devices or materials to make
--- explosive devices.
- 09) Submit to a search and seizure of your person, residence and/or
--- property under your control at any time of the day or night by
--- any law-enforcement
--- officer, with or without a search warrant, and with or without
--- cause (People -v- Bravo).
- 10) Neither use nor possess any controlled substance without medical
--- prescription. A physicians's written notice is to be given to
--- the probation officer.
- 11) Submit to a controlled substance test at direction of probation
--- officer. Each test is subject to an \$11.00 fee, to be collected
--- by Central Collections
- 12) Not possess any type of drug paraphernalia, as defined in
--- H&S11364.5(d)
- 13) Participate in a counseling program as directed by the probation
--- officer,
--- submit monthly proof of attendance and/or successful completion
--- to the probation officer as directed
--- and be responsible for payment of all program fee(s).
- 14) Not associate with known convicted felons or anyone actively
--- engaged in criminal activity
--- except CO-DEFENDANT JEFFERSON JOHNSON.
- 15) Pay a restitution fine in the amount of \$220.00, includes a ten
--- percent (10%) processing fee of \$20.00. Payable at the rate of
--- \$10.00 per month.
--- The total amount less the processing fee to be remitted to the
--- State Restitution Fund through Central Collections.
--- first payment due 90 days from release from custody.
- 16) Not knowingly have any contact with the victim -
--- VICTIM #1.
--- Not knowingly be within 100 yards of the victim's
--- home or place of employment.
- Defendant accepts probation and is given a copy of the Terms and
Conditions.

FINDINGS/ADVISALS:

Pursuant to Section 13350, Vehicle Code, the Court finds a motor
vehicle WAS NOT used in the commission of the offense.
Court finds Defendant is NOT able to reimburse the County for
attorney fees.

Pay \$150.00 for presentence investigation costs pursuant to
1203.1(b) PC through Central Collections.

Costs are payable at the rate of \$10.00 per month commencing 120
days after release from custody and monthly thereafter until
paid in full.

Court finds that the defendant is NOT liable for payment of
booking fees.

Pay \$15.00 per month through Central Collections for probation

supervision (1203.1 PC) payable 1st PAYMENT TO BEGIN 90days

5/28/03

Page: 3

Case Number : FBA007265

People vs. MATTHEW MENARD

from RELEASE FROM CUSTOD

PC12021(d)(2) notification form given to defendant

CUSTODY STATUS

Case custody - Probation.

Commitment issued.

===== MINUTE ORDER END =====

THE DOCUMENT TO WHICH THIS CERTIFICATION
IS ATTACHED, CONSISTING OF PAGE(S) 12 A
FULL, TRUE AND CORRECT COPY OF THE ORIGINAL
ON FILE AND OF RECORD IN MY OFFICE

ATTEST
Clerk of the Superior Court of the State of California
in and for the County of San Bernardino

Date _____

By _____ Deputy



VERONICA E. SAUCEDA

By Veronica E. Saucedo

Date

JUL 20 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino

ATTEST

NANCY CS EBERHARDT

THE DOCUMENT TO WHICH THIS CERTIFICATION
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT
MINUTE ORDER

CASE NO: FBA007265

DATE: 05/01/03

CASE TITLE: PEOPLE OF THE STATE OF CALIFORNIA
VS.
MATTHEW JOSEPH MENARD

DEPT: B2 05/01/03 TIME: 9:00 am PRELIMINARY HEARING

CHARGES: 2) 496(A) PC-F

JUDGE JOHN P VANDERFEER

Clerk C MAUK

Reporter J MEDINA

Deputy District Attorney KATHLEEN DIDONATO present.

Deputy Public Defender JOHN SULLIVAN present

Defendant present in custody.

PROCEEDINGS

Change of Plea at time of PRELIMINARY HEARING.

The Court, after advisement of each of these rights, finds that the Defendant understands the charge(s), the possible penalties, right against self-incrimination, to confront and cross examine witnesses, to a public and speedy trial, to Jury trial, to have an attorney present at all stages of the proceedings and to the Public Defender if indigent and to the compulsory process of the court to subpoena witnesses.

PLEA INFORMATION

Defendant withdraws plea of NOT GUILTY and enters a plea of GUILTY as to Count(s) 2.

Declaration by defendant and Court re: Findings re Plea of Guilty under PC859a (Declaration by Defendant) form filed.
Court finds compliance with Boykin and Tahl rules.

REFERRAL

Defendant applies for Probation.

Referred to Probation Office for presentence investigation and report.

DISMISSALS

On Motion of PEOPLE, Count(s) 1 3 4 DISMISSED subject to reinstatement if plea withdrawn or rejected at any later date.
REASON: 1385 PC

5/01/03

Page: 2

Case Number : FBA007265

People vs. MATTHEW MENARD

HEARINGS

Court orders Defendant be certified to Superior Court pursuant to PC859a.

PC859a sentencing set for 05/28/2003 at 8:30 in Department B4.

Defendant ordered to appear on hearing date.

CUSTODY STATUS

Case Custody - In Custody

Probation Office notified.

***** MINUTE ORDER END *****

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ATTEST

Clerk of the Superior Court of the State of California
in and for the County of San Bernardino

Date

By Deputy



VERONICA E. SAUCEDA

By *Veronica E. Saucedo*

Date JUL 28 2008

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino

ATTEST

NANCY CS EBERHARDT

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VERONICA E. SAUCEDA

By Veronica E. Saucedo
copy

Date JUL 20 2018

Clerk of the Superior Court of the State of California,
in and for the County of San Bernardino.

ATTEST

NANCY CS EBERHARDT
ON FILE AND OF RECORD IN MY OFFICE
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DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: July 23, 2018



FIREARMS TRACE SUMMARY

Trace Number: T20180236503 Request Date: July 12, 2018 Completion Date: July 18, 2018

ROBERT PHILLIPS
AZ DEPT. OF PUBLIC SAFETY
P.O. BOX 6638
PHOENIX, AZ 85005
PHONE: (602) 223-2000 Ext:
FAX (602) 223-2910

Badge No: 6284
Investigation No: AZ1800240560

FIREARM INFORMATION

Manufacturer: SMITH & WESSON
Model: SW40VE
Caliber: 40
Serial Number: PBY9212
Type: PISTOL
Country: UNITED STATES
Importer:
Obliterated:
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 06/10/2018
Time to Crime: 4748 days

3179 W CITRUS RD
BENSON, AZ 85602

Possessor: MATTHEW JOSEPH MENARD

DOB: [REDACTED]
POB: UNITED STATES

DEALER INFORMATION

FFL: 98637876

BEAR MOUNTAIN, INC.
899 E SOUTHERN AVE
MESA, AZ 85204-0000

Phone: (480) 926-7161 **Ship-To-Date: 05/25/2005**
Ext:

PURCHASER INFORMATION

Purchase Date: 06/10/2005

GARY ALLEN EGGERT

DOB: [REDACTED]
POB: OMAHA, NE UNITED STATES
Race: WHITE
Sex: Male
ID 1: AZ DRIVER'S LICENSE: D02488708
ID 2: :

Height: 6 ft 2 in
Weight: lbs

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO A PURCHASER. FOR ANY QUESTIONS, PLEASE CONTACT ATF NATIONAL TRACING CENTER, FIREARMS TRACING BRANCH AT 1-800-788-7133.

Additional Remarks:

The information in this report must be validated prior to use in any criminal proceedings.

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: July 23, 2018



FIREARMS TRACE SUMMARY

Trace Number: T20180236444 Request Date: July 12, 2018 Completion Date: July 20, 2018

ROBERT PHILLIPS
AZ DEPT. OF PUBLIC SAFETY
P.O. BOX 6638
PHOENIX, AZ 85005
PHONE: (602) 223-2000 Ext:
FAX (602) 223-2910

Badge No: 6284
Investigation No: AZ1800238888

FIREARM INFORMATION

Manufacturer: REMINGTON ARMS
COMPANY, INC...

Model:

Caliber: 243

Serial Number: M721135889

Type: RIFLE

Country: UNITED STATES

Importer:

Obliterated:

Identifying Marks:

NIBIN:

Gang Name:

RECOVERY INFORMATION

Recovery Date: 06/10/2018

Time to Crime:

1824 E SILKA RD

HUACHUCA CITY, AZ 85616

Possessor: MATTHEW JOSEPH MENARD

DOB:

POB: UNITED STATES

DEALER INFORMATION

FFL: 61600727

REMINGTON ARMS CO INC

14 HOEFLER AVE

ILION, NY 13357

Phone: (336) 548-8606
Ext:

Ship-To-Date:

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THE FIREARM SERIAL NUMBER IS INVALID. PLEASE RE-EXAMINE THIS FIREARM FOR ANY ADDITIONAL MARKINGS WHICH MAY AID IN PROPER IDENTIFICATION. IF THE REQUIRED INFORMATION IS LOCATED, YOU MAY SUBMIT AN UPDATE/RE-OPEN REQUEST VIA ETRACE OR ADD THE MISSING INFORMATION TO THIS TRACE RESULTS FORM AND FAX IT TO 1-800-578-7223. YOU MAY ALSO SUBMIT DIGITAL PHOTOS OF THIS FIREARM AS AN EMAIL ATTACHMENT TO NTCGRPII@ATF.GOV (PLEASE BE SURE TO REFERENCE THE TRACE ID NUMBER ON ALL EMAIL CORRESPONDENCE). FOR QUESTIONS OR ADDITIONAL ASSISTANCE IN PROPERLY IDENTIFYING THIS FIREARM, PLEASE CONTACT THE ATF NATIONAL TRACING CENTER BY CALLING 1-800-788-7133 AND REQUESTING EXTENSION 3160 OR DIRECT AT 1-304-616-3160.

Additional Remarks:

PER SERIALIZATION THE S/N HAS TOO MANY DIGITS.

Please use the attached Reopen Request when submitting additional and/or corrected information regarding this trace. The information in this report must be validated prior to use in any criminal proceedings.

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: July 23, 2018

REOPEN REQUEST



Trace Number: T20180236444

Closeout Date: July 20, 2018

SUBMISSION INFORMATION

Mail or Fax completed form to:

National Tracing Center
244 Needy Road,
Martinsburg, WV 25405-9431
Fax: (800) 578-7223

REQUESTOR INFORMATION

ROBERT PHILLIPS
AZ DEPT. OF PUBLIC SAFETY
P.O. BOX 6638
PHOENIX, AZ 85005
PHONE: (602) 223-2000 Ext:
FAX (602) 223-2910

Badge No: 6284
Investigation No: AZ1800238888

FIREARM INFORMATION

Manufacturer: REMINGTON ARMS
COMPANY, INC...

Model:

Caliber: 243

Serial Number: M721135889

Type: RIFLE

Country: UNITED STATES

Importer:

Obliterated:

Identifying Marks:

NIBIN:

Gang Name:

Closeout Description:

THE FIREARM SERIAL NUMBER IS INVALID. PLEASE RE-EXAMINE THIS FIREARM FOR ANY ADDITIONAL MARKINGS WHICH MAY AID IN PROPER IDENTIFICATION. IF THE REQUIRED INFORMATION IS LOCATED, YOU MAY SUBMIT AN UPDATE/RE-OPEN REQUEST VIA ETRACE OR ADD THE MISSING INFORMATION TO THIS TRACE RESULTS FORM AND FAX IT TO 1-800-578-7223. YOU MAY ALSO SUBMIT DIGITAL PHOTOS OF THIS FIREARM AS AN EMAIL ATTACHMENT TO NTCGRP1@ATF.GOV (PLEASE BE SURE TO REFERENCE THE TRACE ID NUMBER ON ALL EMAIL CORRESPONDENCE). FOR QUESTIONS OR ADDITIONAL ASSISTANCE IN PROPERLY IDENTIFYING THIS FIREARM, PLEASE CONTACT THE ATF NATIONAL TRACING CENTER BY CALLING 1-800-788-7133 AND REQUESTING EXTENSION 3160 OR DIRECT AT 1-304-616-3160.

Additional Remarks:

PER SERIALIZATION THE S/N HAS TOO MANY DIGITS.

ADDITIONAL/CORRECTED INFORMATION/COMMENTS

Please provide any additional/corrected information needed to process this trace request in the space below.

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: July 23, 2018



FIREARMS TRACE SUMMARY

Trace Number: T20180236440 Request Date: July 12, 2018 Completion Date: July 20, 2018

ROBERT PHILLIPS
AZ DEPT. OF PUBLIC SAFETY
P.O. BOX 6638
PHOENIX, AZ 85005
PHONE: (602) 223-2000 Ext:
FAX (602) 223-2910

Badge No: 6284
Investigation No: AZ1800238888

FIREARM INFORMATION

Manufacturer: REMINGTON ARMS
COMPANY, INC...

Model:

Caliber: 12

Serial Number: U210776

Type: SHOTGUN

Country: UNITED STATES

Importer:

Obliterated:

Identifying Marks:

NIBIN:

Gang Name:

RECOVERY INFORMATION

Recovery Date: 06/10/2018

Time to Crime:

1824 E SILKA RD

HUACHUCA CITY, AZ 85616

Possessor: MATTHEW JOSEPH MENARD

DOB:

POB: UNITED STATES

DEALER INFORMATION

FFL: 61600727

REMINGTON ARMS CO INC

14 HOEFLER AVE

ILION, NY 13357

Phone: (336) 548-8606
Ext:

Ship-To-Date:

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS MADE PRIOR TO THE MARKING AND RECORD-KEEPING REQUIREMENTS OF THE GUN CONTROL ACT OF 1968. ADDITIONAL TRACE INFORMATION MAY NOT BE AVAILABLE. IF A SERIAL NUMBER WAS NOT SUBMITTED WITH THIS TRACE, PLEASE RE-EXAMINE FIREARM FOR SERIAL NUMBER. IF YOU REQUIRE ASSISTANCE IN IDENTIFYING THIS FIREARM PLEASE CONTACT ATF'S NATIONAL TRACING CENTER, LAW ENFORCEMENT SUPPORT BRANCH AT 1-800-788-7133.

Additional Remarks:

The information in this report must be validated prior to use in any criminal proceedings.

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone: (800) 788-7133 Fax: (800) 578-7223

Print Date: June 25, 2018



FIREARMS TRACE SUMMARY

Trace Number: T20180200514 Request Date: June 14, 2018 Completion Date: June 25, 2018

ROBERT PHILLIPS
AZ DEPT. OF PUBLIC SAFETY
P.O. BOX 6638
PHOENIX, AZ 85005
PHONE: (602) 223-2000 Ext:
FAX (602) 223-2910

Badge No: 6284
Investigation No: AZ1800238888

FIREARM INFORMATION

Manufacturer: EXCAM
Model: GT27
Caliber: 25
Serial Number: MI97374
Type: PISTOL
Country: UNITED STATES
Importer:
Obliterated:
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 06/10/2018
Time to Crime: 10826 days

I-10 MP 297
BENSON, AZ
Possessor: MATTHEW 01051980 MENARD
DOB: [REDACTED]
POB: UNITED STATES

PURCHASER INFORMATION

REMIGIO BALLESTEROS

Purchase Date: 10/19/1988

DOB: [REDACTED]
POB: SO MEXICO
Race: HISPANIC
Sex: Male
ID 1: AZ DRIVER'S LICENSE: T178342
ID 2: :

Contact the local ATF office for additional information.

ADMINISTRATIVE INFORMATION

DEALER INFORMATION

FFL: 98609142

L & W PAWN
5410 S. 12TH AVE.
TUCSON, AZ 85706-0000
Phone: (602) 889-8506
Ext:

Ship-To-Date: 07/12/1988

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO A PURCHASER. FOR ANY QUESTIONS, PLEASE CONTACT ATF NATIONAL TRACING CENTER, FIREARMS TRACING BRANCH AT 1-800-788-7133.

Additional Remarks:

The information in this report must be validated prior to use in any criminal proceedings.

ARIZONA DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM



FRANK L. MILSTEAD
DIRECTOR

DATE: July 17, 2018

TO: Todd Whittard, #4824

FROM: Detective Michael Valdez, #7625

SUBJECT: FIREARMS EXAMINATION, DPS DR AZ1800240560

FOR: ☒ Action ☐ Decision ☐ Information ☐ Signature

Mr. Whittard,

The following is a list of analysis I'm requesting in regards to evidence collected from an investigation resulting from an officer-involved shooting, which occurred in Benson, Arizona, on 06-10-2018. The shooting involved an Arizona Department of Public Safety Trooper investigated under AZDPS report number AZ1800238888. The investigation led to the discovery of these firearms which were taken as evidence of Misconduct Involving Weapons. I am respectfully requesting the following analysis be completed on the following items:

Weapons Function Test:

1. Smith and Wesson SW40VE Pistol, Serial #PBY9212
2. Remington Model 10 Shotgun, Serial #U210776
3. Winchester Model 02-22 .22 Caliber Rifle Barrel, (no serial number recorded)
4. Stevens Double Barrel Shotgun 12 gauge, (no serial number recorded)
5. Remington .243 Caliber Rifle, Serial #M72135889
6. Stevens .410 Gauge Shotgun, (no serial number recorded)
7. Marlin Model 60 .22 Caliber Rifle, Serial #27165387

Please let me know if you have any questions concerning this. Thank you.

A handwritten signature in black ink, appearing to read "Michael Valdez".

Detective Michael Valdez, #7625
Arizona Department of Public Safety
Criminal Investigations Division
Special Investigations Unit

mvaldez@azdps.gov
Cell: 480-416-9438



ARIZONA DEPARTMENT OF PUBLIC SAFETY

VI. PHOTOGRAPHS

DR NUMBER:	AZ1800238888
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See attached photographs.

Detective Name	ID No.	Location	Date	Supervisor
Michael Valdez	7625	31030100	09/19/2018	Sgt. Robert Phillips, #6284



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AGENCY Arizona Department of Public Safety

AGENCY NO. AZ1800238888

OFFICER VALDEZ, #7625

DATE September 17, 2018

NAME(S) MENARD, MATTHEW J.



EXAMINATION REQUESTED

Firearm Exam

ITEMS

- RJO2. One (1) semiautomatic pistol, FNH USA, model FNS-40, 40 S&W caliber, serial number GKU0121801 with an attached Streamlight flashlight.
- RJO4. One (1) semiautomatic pistol, FNH USA, model FNS-9, 9mm Luger caliber, serial number GKU0139346 with an attached Streamlight flashlight.
- RO8. One (1) semiautomatic pistol, EXCAM, model GT27, 25 ACP caliber, serial number MI97374, with related magazine and holster.

RESULTS / INTERPRETATIONS

Item RO8 was function examined and test fired using two factory/reference cartridges and the supplied magazine. No malfunctions were identified. Test fired cartridge cases from Item RO8 were designated Item CRCL18 and retained in the laboratory. No further examination of the related holster.

Item RJO2 was function examined and test fired using two factory/reference cartridges and a reference magazine. Test fired cartridge cases from Item RJO2 were designated Item CRCL16 and retained in the laboratory. The related flashlight functions.

Item RJO4 was function examined and test fired using two factory/reference cartridges and a reference magazine. Test fired cartridge cases from Item RJO4 were designated Item CRCL17 and retained in the laboratory. The related flashlight functions.

Evan Thompson

EVAN THOMPSON, #7134, FORENSIC SCIENTIST
Central Regional Crime Laboratory
2102 W. Encanto Blvd., Phoenix, AZ 85009
(602) 223-2394



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Two malfunctions were identified for both Item RJO2 and Item RJO4.

#1 If the chamber is loaded and the muzzle of the firearm pressed against a hard object, this will cause the slide to be pushed back out of battery. If the trigger is pulled fully to the rear and the slide allowed to go back into battery, the striker will fire the cartridge.

#2 If the chamber is loaded and the muzzle of the firearm pressed against a hard object this will cause the slide to be pushed back out of battery. If the trigger is pulled, released, and the slide is allowed to go back into battery, the striker will fire the cartridge if the back of the slide is struck.

Evan Thompson

EVAN THOMPSON, #7134, FORENSIC SCIENTIST
Central Regional Crime Laboratory
2102 W. Encanto Blvd., Phoenix, AZ 85009
(602) 223-2394

*Accredited by the ANSI-ASQ National Accreditation Board (ANAB) to International Standards
Any notes, photographs, charts, or graphs generated during the examination are retained in the laboratory.
Unless otherwise denoted, all evidence will be returned to the submitting agency.*